

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 19

9 Transcript of Jury Trial before The Honorable
10 James O. Browning, United States District Judge, Las
11 Cruces, Dona Ana County, New Mexico, commencing on
12 February 23, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks, Mr.
16 Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,
17 Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,
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1	I N D E X	
2	EXAMINATION (CONTINUED) OF BILLY CORDOVA	
3	By Mr. Castellano	6064
4	By Mr. Villa	6089
5	By Ms. Bhalla	6214
6	By Ms. Jacks	6233
7	By Mr. Castellano	6266
8	By Mr. Villa	6308
9	EXAMINATION OF DWAYNE SANTISTEVAN	
10	By Mr. Beck	6319
11	By Mr. Lowry	6336
12	EXAMINATION OF BRYAN ACEE	
13	By Mr. Castellano	6339
14	EXAMINATION OF CHRISTIAN FILIPIAK	
15	By Ms. Jacks	6399
16	By Ms. Armijo	6412
17	By Ms. Jacks	6424
18	REPORTER'S CERTIFICATE	6427
19	EXHIBITS ADMITTED	
20	Defendants' Q Admitted	6133
21	Defendants' AD2 Admitted	6200
22		
23		
24		
25		

1 THE COURT: All right. Let's go on the
2 record.

3 Good morning, everyone. I appreciate
4 everybody being here, ready to go. We didn't get
5 done on Wednesday. It was too big of a typing job
6 for my legal assistant. We did distribute a clean
7 set of jury instructions, so I'm reviewing those and
8 proofreading those. But I do need to put some
9 deadlines now and some orders in place. So you've
10 got a court order now, so pay attention to it.

11 By 7:30 on Monday morning, I need a letter
12 from everybody, or from the defendants collectively,
13 and I need a letter from the Government or a joint
14 letter. So this is going to require -- there is a
15 meet-and-confer requirement on this, so you do have
16 to talk to each other.

17 I will have Ms. Standridge pass out a
18 yellow sheet -- it may not be yellow when she copies
19 it -- and we'll mark it as an exhibit, but it will
20 give you a few things I need things on.

21 There's a lot of blanks in there. So if
22 you want those instructions and you want to fill in
23 the blanks, then I've got to have the information.
24 If you decide that, well, maybe we don't need to
25 fill in every blank, we can go with the general

1 instruction, then that's fine, and you can let me
2 know and we'll cross out the blanks and we'll give
3 the general instruction. And I'll give you about
4 seven or eight topics of that nature.

5 There are a bunch of things that were in
6 the defendants' -- I'm not seeing the evidence to
7 support some of those defenses and things, so if
8 you'll tell me whether you want to pursue them or
9 not, I'll take out the ones that you don't and we'll
10 argue about the ones that we do.

11 But I really need to have you, this
12 weekend, look at the jury instructions and give me a
13 letter so that, you know, Monday I can be up here
14 trying to finalize those things and get them moving.
15 I'll work on them all weekend. I think everything
16 is in there. I do think there's some stuff that
17 needs to be pulled out.

18 So you have the jury instructions. You're
19 not going to get a clean set today. I'm going to be
20 proofing those, and so I'll be working on them this
21 weekend with you. But by 7:30 on Monday morning --
22 and y'all may need to talk. So do talk. That's
23 part of the requirement here, talk, because it may
24 be that if the Government wants, you know, to start
25 listing out individuals and individual statements,

1 then the defendants may want to, but y'all may
2 disagree on some of those. So I encourage you to go
3 through those instructions one at a time.

4 I think I've said enough on the jury
5 instructions. But do that. We just have got to do
6 it. So let's work on it real hard this weekend and
7 try to whip them into shape. I know there will be
8 some time we're going to need to meet and discuss.
9 But I do think that if you'll give me letters, I
10 think I can know what the problems are, I can start
11 deciding what the issues are, making some rulings,
12 and move it along.

13 I did look at Mr. Baca's motion to clarify
14 the ruling. I'm not inclined to give you three
15 witnesses. I think I am stretching very far to give
16 you one witness to kind of come bloody up Mr. Duran.
17 I'll let you do that just to keep it very, very
18 fair. But I think three witnesses -- I'm stretching
19 to give you one. So take it, figure out which one
20 is your best one, bloody him up, and let's be done
21 with that issue.

22 Let me see where -- first of all,
23 Mr. Jewkes, do you want anything said when you got
24 get out of here at 3:00?

25 MR. JEWKES: Yes, Your Honor.

1 THE COURT: Do you want me to explain to
2 the jury where you're going to go?

3 MR. JEWKES: Your Honor, I'd be satisfied
4 with the Court doing it. And in order to avoid
5 disruption of the trial, I thought probably the
6 first afternoon break or maybe right after lunch.
7 That way, going out of here and whatnot, I won't
8 disrupt anything.

9 THE COURT: Prompt me if I forget it, but
10 you just tell me right before -- you want right
11 after the lunch? Is that what you're thinking of.

12 MR. JEWKES: Probably, yes, Your Honor.
13 And I'm satisfied with the Court telling the jury
14 whatever.

15 THE COURT: Okay. I will do that.

16 MR. JEWKES: Thank you.

17 THE COURT: And Ms. Armijo, you need to be
18 gone a little bit today, too. Do you want any
19 explanation?

20 MS. ARMIJO: No, I have to take care of
21 another court matter this morning.

22 THE COURT: Mr. Jewkes, did you have
23 anything further you wanted to say on this issue
24 about the investigation that Mr. Duran was a part
25 of?

1 MR. JEWKES: No, Your Honor. We would
2 just like to have some type of disclosure as to what
3 type of money-laundering operation it was, whether
4 it was Government authorized or free enterprise.

5 THE COURT: Okay.

6 MR. JEWKES: On the part of Mr. Duran.

7 THE COURT: All right.

8 MS. ARMIJO: Your Honor, it was Government
9 authorized. We received the reports this morning.
10 I'm reviewing them. I believe the Court didn't
11 order disclosure, but said review it for Brady,
12 Giglio, Jencks. And that is what I'm doing. It is
13 an ongoing FBI investigation. No arrests have been
14 made, and so I feel uncomfortable disclosing it.
15 I'd be more than happy to provide the Court with a
16 copy of it. But I'm reviewing it and I know Special
17 Agent Acee reviewed it. He didn't see anything.
18 I'm reviewing it now. I don't see anything. Quite
19 frankly, all it is right now, so far, is a bunch of
20 undercover buys. But I do know what the nature of
21 the investigation was, but since it's ongoing and
22 people have not been arrested, we are reluctant to
23 disclose it.

24 THE COURT: But it's a Government project.

25 MS. ARMIJO: It certainly is, Your Honor.

1 THE COURT: Not a private enterprise.

2 MS. ARMIJO: It is not. I have reports on
3 buys, and I can provide them ex parte for the Court
4 to review.

5 THE COURT: Now, Mr. Jewkes, do you have
6 anything -- other information you need on that?

7 MR. JEWKES: Regarding that, no, Your
8 Honor.

9 THE COURT: Do you have something,
10 Ms. Jacks?

11 MS. JACKS: I do, Your Honor, because I
12 think the questioning from the Government of
13 Mr. Duran implied, or was at least subject to the
14 interpretation, that this Facebook character that he
15 created was part of the money-laundering undercover
16 operation. And to the extent that's false, I think
17 we're entitled to present that to the jury. I don't
18 think the jury should be left with a false
19 impression because of the way the Government did the
20 questioning.

21 THE COURT: Could we do this? To the
22 extent there was some implication that this was --
23 the face page was connected with the operation,
24 could Mr. Acee clean that up? Could Ms. Jacks ask
25 him something on cross and him say the face page

1 didn't have anything to do with the investigation?

2 MS. ARMIJO: I don't know that that's
3 true. So I don't know that Special Agent Acee can
4 testify to that. I can ask Special Agent Acee to
5 look into the matter, but I certainly don't want him
6 to testify to something that's false. We'll look
7 into it.

8 THE COURT: I don't, either.

9 MS. ARMIJO: We'll look into that, Your
10 Honor.

11 THE COURT: All right. That might be a
12 way to clean it up, if the testimony comes out that
13 way.

14 MS. JACKS: I guess I'd have to know the
15 specifics of what Agent Acee is going to say.
16 Because if I'm left with no documents or things to
17 impeach or control that testimony, I'm not sure
18 that's a solution.

19 THE COURT: Well, try to help us out on
20 this, Ms. Armijo. Try to get a little information
21 so that Mr. Sanchez' team can make a call on what
22 they need to do on that.

23 MS. ARMIJO: That's fine, Your Honor.

24 THE COURT: All right. Let's see. I
25 think, Ms. Armijo or Mr. Beck, you had some topics

1 you wanted to raise. Mr. Cordova is not here yet,
2 so we're waiting a little bit. It shouldn't be too
3 long, but he's not here right at the moment. So
4 we've got a little bit of time to hear some issues.

5 MR. BECK: Your Honor, so the defense has
6 listed several medical experts, a couple medical
7 experts that I guess they intend to have testimony
8 on Rudy Perez' behalf. We have not been provided
9 Rule 16 discovery on those experts, whatever bases
10 they relied on, so we would move for the exclusion
11 of their testimony under Rule 16. We have not been
12 provided the medical records that their testimony is
13 based on.

14 THE COURT: What's your thoughts on that,
15 Mr. Villa?

16 MR. VILLA: Well, Your Honor, we have
17 provided a few hundred pages to the Government
18 that -- I don't recall when we originally disclosed
19 Dr. Brislen. I want to say that was in the spring.
20 She also testified at the suppression hearing. And
21 yesterday was the first day that the Government
22 said, you know, are these all the records that Dr.
23 Brislen reviewed?

24 I don't read the Rule 16 disclosure
25 requirement to say that we've got to disclose every

1 single document. However, after conferring with Mr.
2 Beck, I told him today that I would provide him
3 every single record that we have, and we talked
4 about how we could provide that.

5 I think, you know, there was a motion to
6 compel deadline for a reason. There is a duty to
7 act in good faith for a reason. When the Government
8 saw our notice -- which this Court, by the way,
9 found was sufficient the first time; we didn't have
10 to amend that notice. When the Government saw that
11 notice or when the Government heard Dr. Brislen's
12 testimony, all they had to do was write a letter and
13 say, "We think you're entitled to this."

14 They did it yesterday. We conferred. We
15 said we'd turn it over. And we're happy to turn it
16 over. But I think waiting until today and moving to
17 exclude it without ever asking us for anything else
18 is a little bit of sandbagging.

19 THE COURT: Well, I'm not inclined to
20 exclude, but let's do this. Call Dr. Brislen and
21 say, "Here's what I got. Do you have anything else?
22 Are you looking at anything else to make your
23 opinions and diagnosis?"

24 Tell her if she's got more stuff, Fed Ex
25 it, get it up to you, make a copy and get it to you

1 and turn it over. If she says it's the same, then
2 fine.

3 MR. VILLA: I have everything that she
4 has, and as I told Mr. Beck this morning, I have it
5 in an electronic format that I can digitally send to
6 him this morning. He wanted to -- when we talked
7 this morning, he said, "Let me talk to my paralegal
8 about it," because all the hard copies are in
9 Albuquerque. If he wants us to copy them and Fed Ex
10 them, we can, but we have it all electronically,
11 that I can push a button and he can have them in his
12 hands in two minutes.

13 THE COURT: Do me a favor, though. Just
14 talk to Dr. Brislen and make sure that everything
15 you've got, you're turning over, is everything she's
16 got; she doesn't have a separate stack of documents
17 that she's got somehow that she's opining on.

18 MR. VILLA: Very well, Your Honor.

19 THE COURT: Does that work on that, Mr.
20 Beck?

21 MR. BECK: Yeah. I'll check with our
22 staff. That's fine. I'll just note that the
23 amendments to the rule make clear that anything the
24 expert is relying on falls under Rule 16.

25 The second matter, as we're talking in

1 good faith here, the defense has subpoenaed a number
2 of witnesses. The way we've been operating, it's
3 late in the day, we've been giving them our witness
4 list. We expect that in return. So far, that
5 hasn't happened as smoothly as maybe it should or
6 maybe it could. And I understand that these first
7 couple days are difficult, because we said we
8 thought we'd rest yesterday, and that didn't happen.
9 So I understand that the fault also lies at our
10 feet. I'm just hoping that as we're working in good
11 faith, we can continue to have that reciprocity.

12 THE COURT: Do you have a sense as to who
13 is going to be called today if y'all rest?

14 MR. BECK: I do, yes. They provided that
15 list last night.

16 THE COURT: So you're okay?

17 MR. BECK: Yes.

18 THE COURT: And the defendants agreed at
19 the end of the day, wherever we are, you'll let the
20 Government know who you'll be calling on Monday?

21 MR. VILLA: Yes, Your Honor.

22 MS. ARMIJO: And Your Honor, by the end of
23 the day we had an agreement with the defense that it
24 would be by 5:30, because as Ms. Jacks pointed out
25 last week or a couple weeks ago, it doesn't make

1 sense to do it later because we leave to go home,
2 and if we don't know who it is later in the evening,
3 then we can't work on it.

4 THE COURT: No, when I say "end of the
5 day," I mean before you leave the courtroom. You
6 step across and tell them who you're going to call
7 on Monday. Is that the agreement?

8 MR. VILLA: That's fine, Your Honor.

9 THE COURT: Okay. So by the time you
10 leave the courtroom, you'll know who they'll call on
11 Monday.

12 MR. BECK: Sure. The other thing that
13 goes along with that is, we would ask, because a lot
14 of people have a long way to travel, if at that time
15 or sometime before then they know that they're not
16 going to call certain defense witnesses, that they
17 allow those people not to travel all the way from
18 Albuquerque down here or from wherever in the state
19 they are. I think it's the right way to operate.
20 If they're not going to call that person, they
21 shouldn't have to be here in the court, and
22 shouldn't have to incur the expense of traveling.

23 THE COURT: Well, here's what I'd be
24 inclined to do, Mr. Villa. I'm not going to put any
25 hard and strict rules, so I'm not going to order

1 anything here, because I know how hard it is for the
2 defendants to scramble here at the end of the trial
3 and try to put defenses together.

4 But can I just have a commitment from the
5 defendants that you'll do the best you can; that if
6 you know you're going to cut somebody loose, will
7 you let them know as soon as possible so that --

8 MS. JACKS: For sure, Your Honor. And I
9 think that we've been doing that. I'm not quite
10 sure where this complaint is coming from.

11 THE COURT: Well, I'm not -- like I said,
12 it's hard enough for you guys to do what you're
13 going to do. So I'm not going to put any rules or
14 orders in place. But if I can have a commitment, as
15 soon as you know you're not going to call people
16 we've subpoenaed or something, let the appropriate
17 people know so we can cut it loose.

18 Mr. Villa?

19 MR. VILLA: Your Honor, I just want to
20 say, we've cut three people loose with promises to
21 take our calls if we need them. And some of the
22 people who won't talk to us until we put them on the
23 stand, we don't know what they're going to say.

24 THE COURT: I know.

25 MR. VILLA: So the next witness that's

1 sitting outside may have to get called and maybe
2 they don't.

3 THE COURT: Like I say, I'm sympathetic.
4 I want to work with you. But if we can all work
5 together and try to cut people loose as soon as we
6 know they're not going to be called.

7 Ms. Armijo?

8 MS. ARMIJO: Your Honor, for example, for
9 Ms. Jacks, we were not told that Special Agent Nancy
10 Stemo would be testifying today; that she was given
11 a subpoena to be here today. She drove all the way
12 this morning from Albuquerque and is here to testify
13 for the defense. That's just one example. And
14 there's several others that we can inform the Court
15 of.

16 MR. VILLA: Well, Your Honor, Ms. Armijo
17 asked me yesterday -- I didn't want to go there,
18 because I think this is tit for tat. But she asked
19 me yesterday who we intended to call, and I asked
20 her, "What time do you think you'll be done with
21 your case in chief?"

22 And she told me 10:00 a.m. And Mr.
23 Cordova is still on direct examination, and they've
24 told us that they're going to call two other
25 witnesses. So we're doing the best we can to

1 estimate time and issue these subpoenas and talk to
2 folks. Ms. Fox-Young has spoken to Ms. Stemo about
3 being on call. And so, you know, it's kind of hard
4 when the feedback we're getting is the Government is
5 going to recess at 10:00 a.m. and Mr. Cordova is
6 still on direct.

7 THE COURT: Well, okay. Like I say, I'm
8 not going to put any rules in place, because I know
9 what's about to occur over here, and it's fine. So
10 I'm sympathetic. I'm not going to put it in place.
11 I'll just ask everybody, let's work together. We've
12 got to bring this airplane in for a landing and it's
13 hard. It's hard to bring it in for a landing.
14 We've all got to work together. So just keep it in
15 mind. It's hard on witnesses, too. As soon as we
16 make -- as soon as people make some decisions not to
17 call people, let's just cut them loose as soon as we
18 can, so we kind of relieve pressure on everybody,
19 because you've got people preparing for witnesses,
20 you've got marshals bringing some in.

21 But I think y'all know what I'm doing.
22 I'm just trying to jaw-bone a little bit. Let's try
23 to work together to bring this in to a landing.

24 What else, Mr. Beck?

25 MR. BECK: I hear Mr. Villa's comment that

1 they don't know what some witnesses are going to
2 say. There is no requirement under the federal
3 rules that witnesses give an interview pretrial.
4 They are here under subpoena and a lot of them don't
5 want to be. So I think it is improper, to say the
6 least, to tell a witness that she has to show up
7 every day until she agrees to talk to a defense
8 attorney. So that should not happen. They're here
9 under subpoena, and they will get on the stand and
10 testify if they're so inclined. But threats to
11 witnesses that they have to show up every day until
12 they agree to talk is not the right thing to do.

13 I believe one of the people under subpoena
14 is Timothy Martinez' wife. She's been here at the
15 courthouse. She has asked for an attorney to be
16 appointed, and based on some of the testimony that
17 we heard from Mr. Martinez, I believe that the Court
18 should appoint an attorney for her if she's going to
19 testify.

20 THE COURT: Was she the one that was also
21 being -- I'm sorry --

22 MR. BECK: There's a number of these
23 folks. She is not being -- I can't say that for
24 sure. I believe, based on Mr. Martinez' testimony
25 and information that's come out during the trial,

1 she should be appointed an attorney based on what I
2 anticipate the defense will try to elicit from her.

3 THE COURT: You guys are defense counsel.
4 Do y'all concur in Mr. Beck's analysis that given
5 what you may try to get from her, I need to get her
6 an attorney? Anybody analyze it differently?

7 MS. JACKS: Your Honor, that's not Mr.
8 Sanchez' witness.

9 MR. VILLA: Your Honor, I mean, we
10 certainly asked her if she would speak to us and she
11 said that she wouldn't and that she wanted a lawyer.
12 So I think under the rules of professional conduct,
13 I have to say that if she wants a lawyer, she should
14 have a lawyer.

15 THE COURT: All right. Well, let's just
16 hold on a second and let me see if I can reach
17 Ms. Wild. I may have to step out. My cellphone
18 just doesn't work in here very well. Let me see
19 what I can do.

20 (The Court stood in recess.)

21 THE COURT: All right. We're bringing Mr.
22 Cordova up.

23 Mr. Beck, do you have anything further?

24 MR. BECK: Yes, Your Honor. I
25 understand -- and I don't know who, and we don't

1 need to know, nor should we know -- I mean, we have
2 their witness list. I understand that they've
3 subpoenaed several SNM Gang members, current or
4 former, who are refusing to come out of their cells,
5 so Corrections is going to force them out of their
6 cells.

7 But while we're on the topic of persons
8 that should be appointed attorneys, if they are
9 going to call in current or former SNM Gang members,
10 it is likely that their testimony here may implicate
11 them in a RICO conspiracy and subject them to
12 possible federal charges. So it's prudent to also
13 appoint those folks attorneys before they get in
14 here and provide statements that could incriminate
15 them.

16 THE COURT: If you don't want to give it
17 to the Government, can you at least give it to me so
18 I can work with Albuquerque to try to get people
19 appointed? Could I have that agreement from the
20 defendants? And I need as much time as I can,
21 because I'm running out of attorneys. So can I have
22 that commitment from the defendants?

23 MR. VILLA: And commitment is --

24 THE COURT: Well, would y'all just give me
25 a list of who you think you're going to call? If

1 you don't want to give it to the Government, just
2 give me a list of the people you are going to call
3 that are SNM Gang members and that I need to appoint
4 attorneys to, because I'm running out, and I need to
5 probably scramble here on Friday to try to make it
6 happen.

7 MR. VILLA: We can, Your Honor. I know of
8 two that we've already spoken to Ms. Wild about.
9 And I think the others are represented that we have.

10 THE COURT: Okay. So you think I need two
11 lawyers?

12 MR. VILLA: Well, I don't know. One of
13 them, Ms. Wild indicated that he was getting an
14 attorney.

15 THE COURT: Okay.

16 MR. VILLA: And again, I think these
17 are -- some of these witnesses are, for instance,
18 impeachment folks that depend on what the rest of
19 the Government's case shows as to what other
20 witnesses say. We don't want to extract anybody out
21 of their cell. We'd much rather they just speak to
22 an attorney and we can deal with their attorney.

23 THE COURT: Okay.

24 MR. CASTELLANO: The concern, Your Honor,
25 is that they -- I don't know names or numbers, so I

1 don't know how many people there are. They will be
2 forcibly extracted from their cells if Corrections
3 has to comply with the subpoena. They'll be
4 forcibly placed on a van and brought down here
5 basically against their will. So if they think
6 they're real witnesses and they will really take the
7 stand, and obviously Corrections has a subpoena and
8 they will comply, but there is a concern that this
9 may happen by force.

10 THE COURT: Well, Corrections will just
11 have to comply. We'll work as best we can, but
12 they've got a court order, so they'll have to
13 comply.

14 But the defendants, if you can -- Mr.
15 Villa, you indicated that you had talked to Ms. Wild
16 and you think there is one more attorney I need to
17 get?

18 MR. VILLA: Well, so we've heard from
19 Ms. Wild that one of the individuals who was asking
20 for an attorney has been given one, and that
21 attorney was going to reach out I think to Ms.
22 Fox-Young, but hasn't. The other individual we've
23 not heard back from Ms. Wild whether they've been
24 appointed an attorney.

25 THE COURT: Okay. So you're kind of the

1 point person with Ms. Wild on this?

2 MR. VILLA: I think we have been, yes.

3 THE COURT: All right. Well, let me --
4 I'll try --

5 MR. VILLA: We can follow up with her.

6 THE COURT: I'm unable to rustle her up at
7 the moment, but I'll stay in communication with her,
8 and let's you and I stay in touch. You can give Ms.
9 Standridge any notes or anything, and that way, I
10 can try to talk meaningfully with Ms. Wild about
11 what these witnesses may need.

12 MR. VILLA: Sounds good.

13 THE COURT: All right. Did you have
14 anything else, Mr. Beck? I think I hear the jury
15 coming in.

16 MR. BECK: I think that's all at this
17 moment.

18 THE COURT: How about from the defendants?
19 Anybody else? Ms. Duncan?

20 MS. DUNCAN: Your Honor, I understand the
21 Court's ruling about allowing us just one
22 impeachment witness of Mr. Duran, but I would just
23 like to provide the Court with three reports that I
24 have marked Defendants' Exhibits A, B, and C, and
25 these are on the three incidents that we were

1 intending to call the witnesses on, and we would
2 offer these just as a proffer of what they would
3 testify to.

4 And for the Government, they are --
5 Defendants' Exhibit A would be Bates No. 30703 to
6 30708. Defendants' Exhibit B, 41576 to 41582. And
7 then Defendants' Exhibit C, 41605 to 41620.

8 THE COURT: All right. So they won't be
9 admitted into evidence, but they will be accepted by
10 the Court as a proffer in support of the motion to
11 clarify.

12 MS. DUNCAN: Thank you, Your Honor.

13 THE COURT: Do you want to give them to
14 Ms. Standridge, put them in her chair, and she'll
15 give them to them. I may mark those as exhibits to
16 her clerk's minutes and I may give you those letters
17 later.

18 Anything else from the defendants?
19 Anything else we need to discuss?

20 MR. BECK: Your Honor, I guess for the
21 record, the Government will just respond orally to
22 that motion.

23 The Government understands that to the
24 extent these witnesses would be called in to prove
25 bias, their testimony would not be probative of bias

1 unless they could talk somehow about conversations
2 they had with Mr. Duran about promising leniency in
3 exchange for his testimony here, or conversations
4 that these investigators or law enforcement persons
5 had with the federal government about leniency.

6 I think it's one thing for them to come in
7 and testify about their investigation. I think that
8 goes to truthfulness. But where these witnesses are
9 offered for bias, their testimony would not be
10 probative of bias to the extent that Mr. Duran
11 testified that if they couldn't further the
12 investigation for some reason, he didn't know about
13 it. That was his testimony, so --

14 THE COURT: Well, and remember, part of my
15 ruling earlier was that the reason I was going to
16 allow is because you still have Mr. Acee. You can
17 question him about what they're doing on these. And
18 so that was part of my ruling, is that I'm going to
19 allow questioning of Mr. Acee about what the
20 Government is doing on that. So I think you've got
21 that, plus your one witness, so I think we've
22 covered any sort of gap and I don't think there
23 really is one here. I think we've been pretty
24 generous to the defendants to make their point in
25 front of the jury.

1 All rise.

2 (The jury entered the courtroom.)

3 THE COURT: All right. Everyone be
4 seated.

5 Well, good morning, ladies and gentlemen.
6 We had a little difficulty getting Mr. Cordova here
7 on time, so that's the reason for the delay. But
8 we've been using the time well here, so we've been
9 covering some issues so we've been continuing to
10 work. So we may take a little bit earlier break, it
11 may seem early to you, but we've been in here
12 working while we were waiting for Mr. Cordova to
13 arrive.

14 Thank you again for being here and on time
15 and ready to go. I apologize for the gap, but it
16 was not avoidable so I appreciate it.

17 I know, Ms. Harris, you went -- and you do
18 have the flu, and we're sympathizing with you. I
19 sure appreciate you being here. If you need to wear
20 your mask, don't be self-conscious about it. And
21 you've got Tamiflu. It looks like you're feeling a
22 little better today, so it must work.

23 But I appreciate you being a trooper and
24 hanging in with us. So I really appreciate it. I
25 appreciate all of you. And good Friday morning to

1 you, and try to get a good day's worth of work in.

2 All right. Mr. Cordova, I'll remind you
3 that you're still under oath.

4 Mr. Castellano, if you wish to continue
5 your direct examination of Mr. Cordova, you may do
6 so at this time.

7 MR. CASTELLANO: Yes, sir, thank you.

8 THE COURT: Mr. Castellano.

9 BILLY CORDOVA,
10 after having been previously duly sworn under
11 oath, was questioned, and continued testifying
12 as follows:

13 CONTINUED DIRECT EXAMINATION

14 BY MR. CASTELLANO:

15 Q. Mr. Cordova, we finished yesterday with
16 Government's Exhibit 194. I'm going to go ahead and
17 play the third clip from that recording. And before
18 we start, there is a question you were going to ask,
19 it says, "No, but they were just saying that he was
20 supposed to dispose of those, no?" What are you
21 referring to?

22 A. Dan Dan was supposed to dispose of the
23 shanks after Javier Molina got murdered.

24 Q. Is that what you're asking Mr. Herrera
25 about?

1 A. Yes. That was the talk in the yard at the
2 North. And he didn't dispose of them properly and
3 there was issues there.

4 Q. Okay. Let's begin the recording.

5 (Tape played.)

6 Q. Okay. What's this discussion about
7 letting somebody out of the room?

8 A. What he says is, "Yes, they effed by
9 letting him out of the room."

10 Q. Who is "him" who got let out of the room?

11 A. Javier Molina, they let him out of the
12 room when they were stabbing him. They weren't
13 supposed to let him out of the room and they let him
14 out of the room and he made it out, that's what
15 caused everything, was a big mess.

16 Q. Is that why there is a discussion that it
17 could have been done better?

18 A. Yeah. He says, "Could have been done
19 better. Have we done better? Yes. We've done
20 better and it could have been done better but needed
21 to happen."

22 Q. What's this discussion about Archie
23 running, telling everybody?

24 A. Yeah, he was running, telling brothers,
25 "Hey, this Vato's been here for a while, why hasn't

1 he got handled?" And pushing the issue. But Lazy
2 already knew, it's already going to get handled.

3 So the reason why it got done so fast and
4 a little bit sloppy is because at that time, like we
5 were saying before, there was brothers that weren't
6 trusted in the onda at that time that needed to get
7 tapped out. Because there was confidential
8 information getting sent to administration and he
9 didn't want that happening. And then another failed
10 attempt would make him look embarrassed because he's
11 on the tabla. It would embarrass him.

12 Q. And what would confidential information
13 have done to the opportunity to kill Javier Molina?

14 A. The administration would have locked down
15 Javier Molina. They would have missed their
16 opportunity and things would have kept on going,
17 kind of what they say is bad in the onda's brothers
18 escaping their -- escaping their consequences for
19 messing up.

20 Q. Okay. And now was Archie one of the
21 people who had just arrived at the facility?

22 A. Yes, he arrived with Marijuano.
23 Marijuano, I guess, brought down the paperwork. But
24 they were discussing it in the van. They weren't
25 supposed to be discussing that. That's what the

1 recordings were saying between me and Rudy, when
2 they were --

3 MS. BHALLA: Objection, Your Honor. I
4 don't think this is responsive to the question.

5 THE COURT: Overruled.

6 A. All right. So that's why they were saying
7 that.

8 THE COURT: Why don't you ask, though,
9 another question.

10 MR. CASTELLANO: Sure, Your Honor.

11 THE COURT: And not be in a narrative.

12 BY MR. CASTELLANO:

13 Q. So was that some of the concern you
14 mentioned earlier, that people were already talking
15 about this when they shouldn't have been?

16 A. Yes. People shouldn't have been talking
17 about it. Because the only people that should have
18 known is the people taking the message, the people
19 giving the message and handing out the hit. That's
20 it.

21 Q. Let's continue with the recording.

22 MS. DUNCAN: Your Honor, I'm sorry.
23 Before we continue with the recording, could we have
24 a limiting instruction since we're starting over on
25 the limited nature of this evidence?

1 MS. JACKS: I would join.

2 THE COURT: All right. And this is still
3 a conversation with Mr. Herrera, correct?

4 MR. CASTELLANO: Yes, sir.

5 THE COURT: So the jury can only use this
6 conversation in its deliberation as to the charges
7 against Mr. Herrera and may not use them in their
8 deliberations -- in your deliberations as to the
9 charges against the other three gentlemen.

10 All right, Mr. Castellano.

11 MR. CASTELLANO: Thank you, sir.

12 BY MR. CASTELLANO:

13 Q. We'll continue with the recording.

14 (Tape played.)

15 Q. Okay. What wasn't going to happen on
16 their watch?

17 A. He says that he didn't want that happening
18 on their watch. He didn't want confidential
19 information getting dropped to the administration.
20 In other words, excuse my language, but it states it
21 right there, it's some big-ass shit. He didn't want
22 to be embarrassed because he was on the tabla. And
23 they would have made him look bad because he's on
24 the tabla, he's an influential member.

25 MS. BHALLA: Your Honor, I'm going to

1 object to the witness's interpretation of the
2 statements. That's for the jury to decide. I
3 understand the Court's ruling on the issue
4 previously, but I want to renew the objection.

5 THE COURT: Well, put the questions in
6 what he understands the conversation to be about.
7 And if he's going beyond that, then probably he
8 should stop.

9 MR. CASTELLANO: Yes, sir.

10 A. It is what I understand and it is what I
11 know. I was an SNM member at the time.

12 BY MR. CASTELLANO:

13 Q. Let me ask you this --

14 THE COURT: Try to root it in the
15 conversation that's being played.

16 Q. So if he says, "That ain't going to happen
17 on our watch." So in other words, if Javier Molina
18 doesn't get killed on his watch, does that make him
19 look bad as a leader?

20 A. Yes, of course.

21 Q. Okay. Let's continue.

22 (Tape played.)

23 Q. So are you expressing to Mr. Herrera
24 disappointment that Javier Molina had been there for
25 four years and nothing had happened to him?

1 A. Yes.

2 Q. Let's continue.

3 (Tape played.)

4 Q. So you go back to asking about the
5 paperwork; is that correct?

6 A. Yes.

7 Q. And when Mr. Herrera says, "Spider, all of
8 us, Blue, all of us, made that decision, carnal,"
9 what was that decision?

10 A. That decision is that things have to be
11 legit. Things can't be falsified. Because in the
12 past, paperwork had been falsified in the
13 organization and people got murdered over fake
14 paperwork. So the paperwork had to be legit. And
15 they made sure things had to be done right.

16 Q. So there had to be legitimate paperwork in
17 order to justify the Molina murder?

18 A. Yes.

19 Q. Let's continue.

20 (Tape played.)

21 Q. Okay. So what's this discussion about
22 leaks? Is this leaks within the SNM?

23 A. Yes, he was talking about there was leaks,
24 confidential information leaked out to the
25 administration about the tabla that was around.

1 Things being put together in the organization. And
2 that's what -- basically what he's saying is people
3 don't need to know. Those that need to know are the
4 ones that know.

5 Q. Was the tabla SNM business?

6 A. Yes, that's -- those are the top five
7 members that sit down. They discuss any big things
8 going on within the family and they hand down the
9 hits, they hand down the violations. And the
10 llaveros make sure they get done.

11 Q. If it was SNM business then, was it
12 something that the administration should have known
13 about?

14 A. Yes.

15 Q. They should or should not have known?

16 A. No, they shouldn't have not known about.
17 SNM business, no. Because we always denied to any
18 law enforcement that we're even SNM, that SNM even
19 exists.

20 We're a very secretive organization, and
21 that's the way we like to keep it, off the radar
22 from law enforcement. Even people in the streets
23 that don't know us, they don't need to know us. And
24 we shouldn't advertise it like it's a street gang,
25 because it not. It's an organization.

1 Q. Let me ask you this question before it
2 comes up on the transcript. There is a mention of
3 the word "gente." It said, "Our gente, that was
4 there, carnal." What's the word "gente" mean?

5 A. Gente means people, it's Spanish for
6 people.

7 Q. Let's continue the recording.

8 (Tape played.)

9 Q. Mr. Herrera mentioned two names here, Alex
10 and Juanito. Who are those two people?

11 A. Those are two members of the SNM
12 organization.

13 Q. Okay. Let's continue.

14 (Tape played.)

15 Q. Okay. What's the term clavo mean again?

16 A. Drugs.

17 Q. And what is he talking about, about
18 "getting a percentage to the big homie"?

19 A. What he's talking about is taxing other
20 street gang members or other gang members outside
21 the ranfla, outside our organization, taxing them a
22 percentage of all their drugs or any money they make
23 on the streets through drugs. And distributing it
24 amongst the big homies and breaking it up amongst
25 the organization, making sure the brothers that need

1 to get a part of that action, they get a part of
2 that action, a part of the cut.

3 Q. Let's move to the last clip from this
4 exhibit.

5 (Tape played.)

6 Q. Okay. What was your understanding of the
7 SNM's relationship with the Surenos?

8 A. Well, the California Surenos or real
9 Surenos? And those are the ones we have respect
10 with because they run under the Eme, the Mexican
11 Mafia, we're real tight with that organization.

12 But the Surenos in New Mexico have no
13 recognition by them. And so they're in our
14 backyard, basically. They're in the SNM's backyard.
15 So if they're not willing to respect us or pay rent
16 the way they're supposed to, because they're in our
17 backyard, then they'll get stabbed. That's what
18 he's saying.

19 Q. I'm going to take you back to March 6th
20 and 7th of 2014, and I'm going to start by showing
21 you Government's Exhibit 162. Do you recognize this
22 diagram?

23 A. Yes. I'm pretty sure that's Southern.

24 Q. And I'm going to put three letters up
25 here. Can you tell me if I've marked this correctly

1 as blue pod, yellow pod and green pod?

2 A. Yes.

3 Q. And for the record, blue pod is the pod
4 farthest south on the diagram; white pod is farthest
5 west on the diagram, and green pod is farthest north
6 on the diagram?

7 A. Yes.

8 Q. Did I get that right?

9 A. Yes.

10 Q. So I'm going to switch over to -- I'm
11 going to go back to these location histories. Yours
12 is Government's Exhibit 770, and Mr. Herrera's is
13 Government Exhibit 769.

14 So starting with yours, which is on the
15 left, on the screen here. Do you see what I've
16 highlighted as 12/13 of '13 through 3/18 of '14?

17 A. Yes.

18 Q. And do you know what housing unit this is
19 for you?

20 A. Yes.

21 Q. What housing unit is that?

22 A. I believe that is Southern New Mexico
23 Correctional Facility, and that's yellow pod. It
24 runs by the top -- the top tier runs the lower
25 level -- it starts with the lower numbers, cell 1,

1 cell 2, I think, because the control centers are on
2 the top and they look down. And the bottom tier
3 goes to higher numbers. So it runs from 1 to 8. I
4 was on one side of the top tier and he was on the
5 other side of the top tier.

6 Q. When you say "he," who is the other
7 person?

8 A. Carlos Herrera.

9 Q. I'm going to line up now his housing
10 history next to yours. I've already highlighted the
11 dates 4/24 of '13 through 1/17 of '16, and the
12 numbers look similar to yours, SA1, then the letter
13 A 108A. And his is SA1, the letter A 102A. So were
14 you in the same housing unit with Mr. Herrera?

15 A. Yes. And in the same pod.

16 Q. And was your cell 108 and his cell 102?

17 A. Yes.

18 Q. And do you remember if you guys were on
19 the same tier or different tiers?

20 A. No, we were on the same tier.

21 Q. I'm going to go back to Government's
22 Exhibit 162. I'll put letters up here again for
23 blue, yellow and green pods.

24 Okay. So you and Mr. Herrera were in the
25 yellow pod; is that correct?

1 A. Yes.

2 Q. I want to ask you about March 6th, what do
3 you remember about Lupe Urquizo and Mauricio Varela
4 arriving at the facility?

5 A. They arrived at the facility in yellow pod
6 in the bottom tier. And they brought some paperwork
7 down with them.

8 Q. How did you know they brought paperwork?

9 A. Well, I seen the paperwork, it was in
10 Lupe's, something had to do with Lupe's paperwork.
11 It was in between his legal paperwork. There was
12 only a few pages, and it was in a manila envelope.
13 The manila envelope was teared a little bit at the
14 top. And it just stated something about him giving
15 information about a robbery, I guess, that took
16 place. Two individuals jumping in his car, one
17 individual from the back seat handed something to
18 the front seat.

19 The cops went looking for the car, found
20 the car. And then ended up arresting him on, I
21 think it was a PV or something, I don't know.

22 Q. When you say "him," who are you referring
23 to?

24 A. To Javier Molina. And then Javier Molina
25 had assisted the authorities in that investigation

1 by stating that yes, there was a robbery that took
2 place. The guys jumped in his vehicle. The guy in
3 the back handed something to the guy in the front
4 and then he dropped him off. And that was it. And
5 I think they arrested him for a probation violation
6 or something.

7 Q. Who showed you the paperwork?

8 A. Lazy.

9 Q. Is Lazy Carlos Herrera?

10 A. Yes.

11 Q. Did you discuss the paperwork with him?

12 A. Yes.

13 Q. Do you know what happened to the
14 paperwork? Did it stay in that pod or did it go
15 anywhere else?

16 A. To be honest with you, I don't know. It
17 might have went to green pod, but I don't know.

18 Q. So once you saw it, you weren't sure what
19 happened to it from there?

20 A. No, I wasn't sure what happened to it from
21 there.

22 Q. What discussion did you have with
23 Mr. Herrera about the paperwork?

24 A. He was just saying, "What do you think
25 about this vato? Think he needs to go?" And I

1 said, "The decision is up to you. You're the man.
2 You call it." And he says, "You back me on this?"
3 I said, "It's legit. I back you. I got you."

4 Q. So as a good brother, if you know that
5 this appears to be a legitimate hit, did you
6 basically give Mr. Herrera your approval or backing
7 at least because it looked like it should have been
8 done?

9 A. Yes, it's called political backing. So
10 that way, if anything else comes down on him and,
11 "Hey, why did this happen?" He can say, "Nah, we
12 all -- I had good brothers even look at it and these
13 good brothers even agreed with it." So it's a
14 political backing is what it is.

15 Q. So to the extent he was looking for your
16 backing, is it fair to say that you gave it to him?

17 A. Yes.

18 Q. And what else do you remember about the
19 environment in the pod? In the recordings, for
20 example, there was talk about Lupe Urquizo or
21 Archie, I should say, running around talking to
22 people.

23 A. Well, we sat down right in front of
24 Archie's cell.

25 Q. And is Archie Mauricio Varela?

1 A. Yes. Yes, and we sat down and he was
2 saying through his window, "Why has that vato been
3 here a long time?" Just stuff like that. Just
4 indicating the vato had been there for a while, why
5 hasn't he gotten taken care of?

6 And then after we went to lockdown for a
7 count, they would let them out to shower because
8 they're on orientation. And he was going to
9 carnals' doors, like, "Why has this vato been here?
10 Why hasn't he got handled?"

11 Q. Who is saying that?

12 A. Mauricio Varela.

13 Q. And so he's pushing the issue in the pod?

14 A. Well, the issue was already getting
15 handled. What he was doing was just kind of letting
16 brothers know, like, "Come on, man, how embarrassing
17 is this. This guy has been here a while and he
18 hasn't got handled. And good brothers like us are
19 stuck in Santa Fe at the North? You know, it's a
20 disgrace, come on."

21 Q. Did Mr. Herrera have a discussion with you
22 shortly before the murder took place? Did he tell
23 you you should do something?

24 A. Yes. He told me, "Let your people know
25 we're going to be on lockdown."

1 Q. And what did you take that to mean?

2 A. I already knew what it was. I let my
3 people know at that time, "Hey, we're going to be on
4 lockdown. I might not be able to call you for a
5 while." That was it.

6 Q. All right. Why were you going to be on
7 lockdown?

8 A. Because Javier Molina was going to get
9 hit.

10 Q. Did you remember any other statements
11 Mr. Herrera made about the hit happening, or that it
12 was going to happen?

13 A. Yes. He said "Blue pod will take care of
14 it -- blue pod will take care of it and Dan Dan will
15 make sure it gets done."

16 Q. Why would he mention Dan Dan's name in
17 conjunction with blue pod?

18 A. Because Dan Dan was an influential member
19 at the time. I believe he was on the tabla and he
20 had appointed a llaveroship at the time so he would
21 make sure it got done.

22 Q. For each of them as llaveros, was it their
23 responsibility to make sure this got done?

24 A. Yes.

25 Q. Was that expected of them because they

1 were leaders in the SNM?

2 A. Yes.

3 Q. You also mentioned a discussion before
4 with Daniel Sanchez regarding shanks. What was that
5 discussion?

6 A. I had the conversation with Lazy about the
7 paperwork. And then maybe about an hour later, Dan
8 Dan came to the door and says, "Hey, do you have a
9 spare fierro?" I told him, "Jablay," just language,
10 "what's up?" And he's like, "No, it's all good."
11 Then he left.

12 The conversation only lasts for a few
13 seconds. Then about maybe 20 minutes later, he came
14 back and he tells me -- and excuse my language when
15 I say this, I don't mean to, you know, insult you
16 guys -- but he says, "We got them from Fat Ass
17 downstairs. It's all good." At that time I was in
18 the top tier talking to him at the door. We already
19 knew who Fat Ass is downstairs. He's talking about
20 Rudy Perez.

21 Q. After the Molina murder, did you get moved
22 anywhere or did you stay in the pod?

23 A. I paroled. I stayed in the pod and I
24 paroled a month and a half later to the streets.

25 Q. And then eventually did you find yourself

1 back in prison discussing the Molina hit with other
2 SNM members?

3 A. Yes, at the North.

4 Q. And what was your discussion about Daniel
5 Sanchez?

6 A. Daniel Sanchez is -- Blue, I believe, was
7 kind of hurt with him because he didn't dispose of
8 the shanks properly after the hit went down, that
9 was the talk.

10 MS. DUNCAN: Your Honor, I'm going to
11 object. This is soliciting hearsay.

12 MS. JACKS: I also object and move to
13 strike. It's blatant hearsay.

14 THE COURT: Well, I am going to strike it.

15 MR. CASTELLANO: I'll rephrase, Your
16 Honor.

17 THE COURT: That and the prior sentence,
18 prior testimony is correct, so strike those and the
19 jury will not consider those.

20 BY MR. CASTELLANO:

21 Q. Let's focus on what you talked about and
22 what you agreed to do. So are you having discussion
23 with SNM members about Daniel Sanchez?

24 A. Yes, sir.

25 Q. And from that discussion, did you have

1 concerns about Daniel Sanchez not having disposed of
2 the shanks like he was supposed to?

3 A. Well, any good brother would.

4 MS. JACKS: Objection, relevance.

5 THE COURT: Overruled.

6 A. Any good brother would, because when there
7 is foul play within the onda, you leave a brother
8 flojas, that's part of the rules. Not supposed to
9 leave him stranded during the mission.

10 BY MR. CASTELLANO:

11 Q. So as a result of those discussions, how
12 many SNM members were part of this discussion?

13 A. Probably about a good -- at that time we
14 were all in the yard together, they had us all at
15 once. And that talk was going amongst the whole --
16 probably the whole two pods.

17 Q. Now, as a result of these discussions, did
18 you agree that something should happen to Daniel
19 Sanchez or his brother?

20 A. If the brother --

21 MS. JACKS: Objection, Your Honor. I
22 don't see the relevance of this entire line of
23 questioning.

24 THE COURT: I'm not following it, either.
25 What is the relevance?

1 MR. CASTELLANO: This is the conspiracy to
2 murder Daniel Sanchez for not following -- for not
3 disposing the shanks, Your Honor. This has been
4 testified to previously.

5 THE COURT: And what's the relevance of
6 this?

7 MR. CASTELLANO: Relevance? Well, through
8 the testimony, Mr. Armenta was supposed to give the
9 shank to Daniel Sanchez and Daniel Sanchez did not
10 take the shanks. And Armenta threw them in the
11 trash can. And so this is the discussion from other
12 members about Mr. Sanchez not following through with
13 part of the plan.

14 THE COURT: All right. Overruled.

15 MS. JACKS: Well, Your Honor, I don't see
16 how that relates to any of the charged crimes here.

17 THE COURT: Why don't y'all approach?
18 Let's do this.

19 (The following proceedings were held at
20 the bench.)

21 THE COURT: Tell me, if I allow this
22 testimony in, what are you going to turn to the jury
23 and say in closings about how this is relevant to
24 the charges here?

25 MR. CASTELLANO: Well, Daniel Sanchez had

1 agreed -- there is already testimony that Daniel
2 Sanchez agreed to get rid of the shanks, Armenta's
3 shanks. Mr. Rodriguez was supposed to get rid of
4 Jerry Montoya's shank. And Daniel Sanchez had
5 agreed to do so as part of the murder conspiracy.
6 That was one of the roles that Daniel Sanchez
7 played. And I believe Mr. Rodriguez testified that
8 when everything happened, Mr. Armenta turned to give
9 the shank to Daniel Sanchez and Daniel Sanchez just
10 told him to throw it in the trash. And so Mr.
11 Rodriguez did not do as he was supposed to do as
12 part of the murder conspiracy.

13 And we've already had one other witness, I
14 believe Roy Martinez testified about this, that
15 there was a discussion that they were going to hit
16 Daniel Sanchez, but Daniel Sanchez went out of state
17 so the discussion turned to killing his brother,
18 Ronald Sanchez, for his failure to back his
19 brothers. There has already been testimony on this
20 issue in this trial.

21 MS. JACKS: It's cumulative, but also the
22 relevance.

23 THE COURT: I think it's relevant. I
24 think we're beginning to really run on fumes here.
25 I can see a marginal relevance. Let's try to get in

1 and out of here. I think we've made our point to
2 the jury.

3 MS. DUNCAN: My other objection is: This
4 is totally based on hearsay, whether he decided to
5 hit Dan Sanchez based on what other people told him
6 Dan Sanchez did or didn't do.

7 THE COURT: So if you want me to give a
8 limiting instruction on this -- but I mean, if he's
9 acting on things that are said, if you can avoid
10 having him testify about what is said, you can avoid
11 a limiting instruction. But if we can confine it to
12 what he did, I don't think a limiting instruction is
13 necessary. But I do think they are more commands
14 than instructions, so they're not really hearsay --
15 just do something. So I'm not quite sure -- to the
16 extent that there might be some, I can do a limiting
17 instruction, but I think they're more commands than
18 instructions, so they're not hearsay.

19 MS. DUNCAN: The marginal relevancy I'm
20 talking about is only based on hearsay, based on
21 someone telling him Daniel Sanchez was supposed to
22 dispose of the shanks and he didn't, so hit him.

23 I think that the answer is suggesting the
24 truth of the hearsay that this witness relied on to
25 decide that he wanted to hit Dan Sanchez.

1 THE COURT: Well, we'll just have to take
2 it a question at a time. I can't label the entire
3 category here as hearsay. Some of it seems to be
4 instructions and directions and other, maybe,
5 hearsay so --

6 MR. CASTELLANO: It goes to this witness'
7 state of mind in terms of his agreement that certain
8 things should be done within the S.

9 THE COURT: If it's coming in just for
10 state of mind, if that's what you're trying to
11 prove, then I think you're entitled to a limiting
12 instruction.

13 MR. CASTELLANO: Which is fine. It's
14 already in through another witness, so . . .

15 MS. JACKS: His state of mind is
16 irrelevant. I mean, what is the relevance?

17 THE COURT: I prefer that we limit it to
18 what he is doing.

19 MR. CASTELLANO: Sure.

20 THE COURT: If we can just say what he's
21 doing rather than trying to get into the information
22 itself, it would make a cleaner record.

23 MR. CASTELLANO: That's fine.

24 THE COURT: Let's try to get in and get
25 out of there. This is getting kind of marginally

1 relevant.

2 (The following proceedings were held in
3 open court.)

4 THE COURT: All right. Mr. Castellano.
5 BY MR. CASTELLANO:

6 Q. Based on these discussions, Mr. Cordova,
7 did you agree that Mr. Sanchez or his brother should
8 be hit for this failure?

9 A. What I told the brothers there is that if
10 he --

11 THE COURT: Why don't you --

12 MS. JACKS: Objection. Nonresponsive.

13 THE COURT: Just hold on.

14 THE WITNESS: Yes.

15 THE COURT: Just answer the questions yes
16 or no.

17 A. Yes.

18 THE COURT: Overruled.

19 MR. CASTELLANO: May I have a moment, Your
20 Honor?

21 THE COURT: You may.

22 MR. CASTELLANO: Thanks, Your Honor. I
23 pass the witness.

24 THE COURT: Thank you, Mr. Castellano.
25 Who is going to go first? Mr. Villa?

1 MR. VILLA: Yes, Your Honor.

2 THE COURT: Mr. Villa.

3 MS. BHALLA: Your Honor, if I may? I
4 apologize. Our monitor is not working over here,
5 Your Honor.

6 THE COURT: All right. We'll try to get
7 somebody up to look at it.

8 MR. VILLA: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. VILLA:

11 Q. Good morning, Mr. Cordova.

12 A. Good morning.

13 Q. You testified yesterday regarding the
14 incident that you had at MDC in which you were able
15 to open a cell door so that you could assault an
16 inmate. Do you remember that?

17 A. Yes. At MDC, I did.

18 Q. And I think you talked about how, in that
19 situation we saw your records that Mr. Castellano
20 showed you, you were convicted of resisting arrest
21 and that was it?

22 A. Evading and obstructing of a peace
23 officer, yes.

24 Q. Okay. And you might need to just get a
25 little bit closer to the microphone so we can hear

1 you.

2 A. Sorry about that.

3 Q. That's okay.

4 I believe it was your testimony that one
5 of the ways you were able to do that, at least to
6 get to the guards' keys, was you know how to
7 manipulate the system?

8 A. Yes, that's part of the SNM rules, is we
9 all were -- we're schooled on that.

10 Q. But you know how to manipulate the system?

11 A. Yes, I do.

12 Q. And I think you also testified one of the
13 reasons that you were only convicted of the crime
14 you were convicted of is you know how to work the
15 law?

16 A. Yes.

17 Q. And it also just so happened that when
18 Agent Acee came to see you in January of, I believe
19 it was 2016, you were at MDC; right?

20 A. Yes.

21 Q. Same place where this other incident had
22 occurred?

23 A. Yes, sir.

24 Q. And Agent Acee told you he was looking at
25 you for a RICO charge, didn't he?

1 A. Yes, sir.

2 Q. You had been in custody at that time at
3 MDC for about a year and a month. Is that right?

4 A. No, that's not correct.

5 Q. How long had you been in custody at the
6 time Agent Acee came to see you?

7 A. About a year and a couple of months.

8 Q. Okay. Excuse me. So you'd been at MDC
9 come January 2016 for about a year and a couple
10 months; right?

11 A. No, sir.

12 Q. Okay. I guess maybe we're just not
13 understanding each other. At the time Agent Acee
14 came to see you in January 2016, how long had you
15 been in custody at MDC?

16 A. I'd been in custody from the end of
17 November, or I should say Thanksgiving, to around
18 that time, January.

19 Q. So are we just talking few months or are
20 we talking a year and a few months?

21 A. No, we're talking a few months. I was in
22 the Department of Corrections because I was
23 finishing off my parole.

24 Q. Before Agent Acee came to see you, when
25 was the last time you'd been out on the street?

1 A. The last time was in December 3rd of 2014.

2 Q. And Agent Acee came to see you January of
3 2016?

4 A. I believe so.

5 Q. So the last time you'd been out on the
6 street was a year and a month, give or take?

7 A. Yes, sir.

8 Q. And you had just gone to trial, had you
9 not, on the murder charge?

10 A. Yes, sir.

11 Q. You were found guilty of manslaughter?

12 A. Yes, sir.

13 Q. And that was a case involving an
14 individual named Ray Gurule; is that right?

15 A. Yes, sir.

16 Q. That's who you were found guilty of
17 killing?

18 A. Yes, sir.

19 Q. Did you kill Mr. Gurule?

20 A. No, sir.

21 Q. So you're telling this jury that even
22 though a jury found you guilty, you're not guilty?

23 A. They found me guilty on aiding and
24 abetting and manslaughter. Eight jurors thought I
25 was innocent, four of them said something happened.

1 It was more of an agreement to sit down and say,
2 "Well, we feel there is some kind of fault there.
3 He was around the area, and more than likely
4 something happened, so we'll get him with aiding and
5 abetting and manslaughter." That's what was done.

6 Q. So you're saying you were just around the
7 area, something must have happened; and therefore,
8 they convicted you of aiding and abetting
9 manslaughter?

10 A. I was involved in the altercation that
11 took place.

12 Q. That ended in Mr. Gurule's death?

13 A. Yes, sir.

14 Q. And the jury found you guilty for that?

15 A. Yes, sir.

16 Q. And at the time Agent Acee came to see
17 you, you were awaiting your sentencing, correct?

18 A. Yes, sir.

19 Q. What was your sentence?

20 A. My sentence was -- I still had one more
21 trial, as a matter of fact, to take place. It was a
22 felon in possession of a firearm.

23 Q. Mr. Cordova, let me get you to answer my
24 question. My question was: What was your sentence
25 on the manslaughter?

1 A. My sentence is seven years.

2 Q. Seven years. And then you had another
3 trial that was coming up; right?

4 A. Yes.

5 Q. And Agent Acee came to see you while all
6 this was going on, while you're in jail, and said
7 that he was looking at you for a RICO Act?

8 A. Yes, sir.

9 Q. The RICO is the racketeering statute;
10 right?

11 A. Yes, sir.

12 Q. You knew by then, didn't you, that many of
13 the members of SNM had been indicted by the feds for
14 RICO?

15 A. Yes, sir.

16 Q. Because you saw some of them just a couple
17 months earlier at MDC; right?

18 A. Yes, sir.

19 Q. And Agent Acee told you that they had just
20 picked up some SNM members on a RICO Act and that
21 they were going to do a second indictment and they
22 were looking at you for that?

23 A. Yes, sir.

24 Q. He told you that you could be facing the
25 death penalty, didn't he?

1 A. No, sir.

2 Q. He never told you that?

3 A. No, sir.

4 Q. Was there ever a point in time where
5 anybody told you that you might be facing the death
6 penalty?

7 A. No, sir.

8 Q. Did Agent Acee tell you you were facing a
9 life sentence?

10 A. No, sir.

11 Q. Was there ever a point in time that
12 anybody from the federal government told you you
13 were facing a life sentence?

14 A. No sir.

15 MR. VILLA: Your Honor, I'd like to play
16 for the jury Exhibit 747.

17 MS. BHALLA: Z.

18 MR. VILLA: Excuse me. Z47.

19 THE COURT: All right.

20 BY MR. VILLA:

21 Q. Before we get to that, Mr. Cordova, you've
22 made phone calls to family members over the phone
23 through the prison and jail system?

24 A. Yes.

25 Q. You know that those phone calls are

1 recorded?

2 A. Yes, sir.

3 Q. I'll go ahead and play this call,
4 Mr. Cordova, that I'll represent to you was made on
5 July 29, 2016.

6 (Tape played.)

7 Q. Did you hear the name that the inmate
8 gave, Shadow?

9 A. Yes.

10 Q. Is that you?

11 A. Yes.

12 Q. And, I'm sorry, I'm just not picking you
13 up on the mic very well.

14 A. Yes, sir.

15 Q. So Shadow is you?

16 A. Yes, sir.

17 Q. You recognize your voice?

18 A. Yes, sir.

19 Q. You recognize that prison recording?

20 A. Yes, sir.

21 Q. Please continue playing.

22 (Tape played.)

23 Q. Mr. Cordova, is that your voice?

24 A. Yes, sir, it is.

25 Q. And did you not just say, "The feds came

1 and told me I'm facing another life sentence,
2 possibly the death penalty"?

3 A. Yes, sir.

4 Q. You made that statement?

5 A. Yes, sir.

6 Q. Continue.

7 (Tape played.)

8 Q. Did you hear, Mr. Cordova, you say that
9 "They're starting to threaten my family"?

10 A. Yes, sir.

11 Q. And you said that?

12 A. Yes, sir.

13 Q. Please continue.

14 (Tape played.)

15 Q. Did you hear the individual that you were
16 speaking to?

17 A. Yes.

18 Q. Can you tell the jury who that is?

19 A. That's my wife.

20 Q. And what's your wife's name?

21 A. Crystal Salas.

22 Q. Crystal Salas?

23 A. Yes.

24 Q. So Mr. Cordova, on July 29, 2016, you had
25 this call with your wife Crystal?

1 A. Yes.

2 Q. And July 29, 2016 is after January of
3 2016, when Mr. Acee came to see you?

4 A. Yes.

5 Q. Please continue.

6 (Tape played.)

7 Q. Mr. Cordova, did you also hear yourself
8 say that you were telling Crystal that you weren't
9 weak or you weren't a pussy?

10 A. Yes, sir.

11 Q. You're saying that in the context of the
12 fact that you cooperated with the federal
13 government; right?

14 A. Yes, sir.

15 Q. And you decided to walk away from
16 something that wasn't worth, in your words, "a
17 fuck"?

18 A. Yes, sir.

19 Q. And that being the SNM?

20 A. Yes, sir.

21 Q. So in your mind, that was part of the
22 reason for going to work for Mr. Acee?

23 A. Yes, sir.

24 Q. And also, at least according to your
25 conversation with your wife, you were threatened

1 with a life sentence or the death penalty.

2 A. I lied. That's not what happened.

3 Q. You lied to your wife?

4 A. Yes, sir.

5 Q. Is that what you're telling the jury?

6 A. Yes, sir.

7 Q. And I'm sorry, I'm just not picking you up
8 very well on the mike. Maybe if we turn it a
9 little.

10 A. Yes, I lied to my wife.

11 Q. Now, you also said, did you not, that the
12 feds had threatened your family; right?

13 A. Also, I lied.

14 Q. So you lied to your wife?

15 A. Yes, sir.

16 Q. Well, let's talk a little bit about those
17 lies. You said -- at some point did you not tell
18 your wife that they had threatened her?

19 A. I was telling her that through me.

20 Q. I understand. But you said to your wife
21 that the feds were threatening to prosecute her?

22 A. At that time I was conflicted with what I
23 was doing.

24 Q. Mr. Cordova, let me get you to answer my
25 question. Okay?

1 A. Yes.

2 Q. So you told your wife that?

3 A. Yes.

4 Q. And you told your wife that she could end
5 up in jail?

6 A. Yes.

7 Q. Or potentially go to prison?

8 A. Yes.

9 Q. And you told her that that was one of the
10 reasons you went to work for the federal government,
11 to protect her?

12 A. Yes.

13 Q. That was a lie?

14 A. Yes.

15 Q. Did you not also tell your mother that the
16 part of the deal you were getting from the feds is
17 that they wouldn't go after your mother?

18 A. Yes.

19 Q. Because your mother had gotten in trouble,
20 didn't she?

21 A. Yes.

22 Q. She got in trouble for trying to bring you
23 drugs to the prison?

24 A. Not me.

25 Q. To somebody in the prison?

1 A. Yes.

2 Q. And the state case for that was dismissed,
3 was it not?

4 A. Yes, sir.

5 Q. But there hadn't been a federal case yet
6 against your mom?

7 A. No, sir.

8 Q. And you told your mom that part of the
9 deal you were getting was that she wasn't going to
10 get prosecuted?

11 A. Yes, sir.

12 Q. And then Crystal wasn't getting
13 prosecuted?

14 A. Yes, sir.

15 Q. Was that a lie to your mother too?

16 A. Yes, sir.

17 Q. And did you not tell Crystal that if they
18 hadn't screwed with her -- and pardon my language --
19 hadn't messed with her and your mom, that you would
20 have told them to go fuck themselves?

21 A. Yes, sir.

22 Q. And you're saying that's a lie too?

23 A. Yes, sir.

24 Q. So let's go back then to when Agent Acee
25 came. After he told you that they were looking at

1 you for the second indictment, the second round of
2 the RICO case, you ultimately made a decision to go
3 work for the federal government; right?

4 A. Yes, sir.

5 Q. You certainly didn't want to get
6 prosecuted for a RICO case?

7 A. No, sir.

8 Q. You didn't want to do more prison time,
9 did you?

10 A. No, sir.

11 Q. And there was an agreement made that if
12 you worked for the government, you would have
13 immunity from anything that you had done for the
14 SNM?

15 A. Yes, sir.

16 Q. Any of the crimes that we've heard over
17 the last day or so?

18 A. Yes, sir.

19 Q. As a matter of fact, you have not been
20 prosecuted for any of these crimes, have you?

21 A. No, sir.

22 Q. As you sit here today, the federal
23 government has not charged you with any crimes at
24 all?

25 A. No, sir.

1 Q. And that was what you hoped for when you
2 decided to go work for the federal government;
3 right?

4 A. Yes, sir.

5 Q. Mr. Cordova, within just a couple of days,
6 I think it was your testimony, of meeting with Agent
7 Acee, you were moved to the Penitentiary of New
8 Mexico, correct?

9 A. Yes, sir.

10 Q. From the Metropolitan Detention Center in
11 Albuquerque?

12 A. Yes, sir.

13 Q. Your case in Albuquerque wasn't done, you
14 still had to go to court to get sentenced; right?

15 A. Yes, sir.

16 Q. But the Government was able to move you to
17 PNM and put you next to Mr. Perez; right?

18 A. I still owed parole in the Department of
19 Corrections. That's where I was housed at. I was
20 only at MDC for court on my trial for my murder.
21 That was it. But I was originally housed at the
22 Penitentiary of New Mexico in Santa Fe.

23 Q. And when you got taken to PNM after you
24 met with Agent Acee --

25 A. Taken back to PNM.

1 Q. Yes, sir. After meeting with Agent Acee,
2 you were immediately placed right next to Mr. Perez?

3 A. Yes, sir.

4 Q. And that was in, I think it was the Q pod,
5 correct?

6 A. Yes, sir.

7 Q. Previous to that, you had been at PNM in
8 the fall of 2015, in the same area; right? PNM
9 North.

10 A. Yes, sir.

11 Q. Were you in X pod at that time?

12 A. Yes, sir.

13 Q. And Mr. Perez was also in X pod for a
14 period, wasn't he?

15 A. Yes, sir.

16 Q. And I think you just testified a little
17 bit about some of the conversations that were going
18 on, right there at the end of your direct
19 examination, that basically both pods were sort of
20 talking about Molina; right?

21 A. Yes, sir.

22 Q. And what happened down in Southern with
23 the murder; right?

24 A. Yes, sir.

25 Q. And who was involved?

1 A. Yes, sir.

2 Q. Who the players were?

3 A. Yes, sir.

4 Q. Everybody was just sort of talking about
5 that in the fall of 2015?

6 A. Yes, sir.

7 Q. And you, of course, knew a little bit
8 about what had happened because you'd been in -- at
9 least had been in yellow pod when Mr. Molina was
10 killed in the blue pod; right?

11 A. Oh, I knew what all happened. I was in
12 the yard. After the murder when they would take us
13 to yard and people would talk out there. And I was
14 there when Lazy told me.

15 Q. No.

16 A. I'm just explaining, because you're saying
17 that, you know.

18 Q. If I ask you to explain, you're happy to
19 explain. But let me just get you to answer my
20 question, okay?

21 A. All right.

22 Q. You had knowledge about Mr. Molina's death
23 not just from what you saw yourself, but what you
24 heard from other people, correct?

25 A. Yes, sir.

1 Q. And you would agree with me that from the
2 time Mr. Molina had been killed, that people were
3 talking about it?

4 A. Yes, sir.

5 Q. So if we fast-forward through 2014, after
6 Mr. Molina is killed, and through 2015 in the fall,
7 when you had been at the Penitentiary of New Mexico,
8 you had a lot of information about the Molina
9 homicide; right?

10 A. Yes, sir.

11 Q. And I think it was your testimony that
12 before you got the recording device to record
13 Mr. Perez, you were placed next to him for about a
14 week; right?

15 A. Before? Yes.

16 Q. So you get to PNM, Mr. Perez is your
17 neighbor; right?

18 A. Yes, sir.

19 Q. Then about a week goes by before they can
20 give you this recording device?

21 A. Yes, sir.

22 Q. So you had an opportunity to speak to
23 Mr. Perez before you ever got the recording device?

24 A. Yes, sir.

25 Q. And you knew, did you not, at the time you

1 started recording Mr. Perez, that there was rumors
2 about Mr. Perez' cooperation?

3 MR. CASTELLANO: Objection, hearsay.

4 MR. VILLA: And again, Your Honor, this
5 isn't being offered for the truth.

6 THE COURT: Well, we're just going to try
7 to find out if there were rumors, you're not to
8 consider the rumors. If he testifies that there are
9 for the truth of the matter, you can only consider
10 it for the fact that there was a rumor out there and
11 that it existed. And then you can consider that if
12 anybody acted on it. Why don't you ask, first of
13 all, if he knows.

14 BY MR. VILLA:

15 Q. Mr. Cordova, did you know that there were
16 rumors about Mr. Perez being a cooperator?

17 A. What was said is, "Why was Dan Dan shipped
18 out of state?" Because Dan Dan got the --

19 Q. Mr. Cordova, let me ask you a yes or no
20 question, okay? Before you start --

21 MS. JACKS: Strike the answer because it
22 appears to be hearsay.

23 THE COURT: Do you want that answer?

24 MR. VILLA: That was not what I was trying
25 to elicit, Your Honor.

1 THE COURT: All right. So I'll strike the
2 answer as nonresponsive. So the jury should not
3 consider that testimony.

4 A. Yes. There was rumors.

5 BY MR. VILLA:

6 Q. Okay. Mr. Cordova, you understood there
7 were rumors that Mr. Perez was cooperating?

8 A. Yes, sir.

9 Q. And meaning that he had talked to somebody
10 about what happened with Molina?

11 A. Well, they didn't know that for sure.
12 They were --

13 Q. No, no, no. I'm just trying to clarify
14 that it was a rumor.

15 A. It was just an assumption because of the
16 way things went down. That's all it was.

17 Q. The assumption was that Mr. Perez was
18 cooperating.

19 A. Yes.

20 Q. And when I say "cooperating," I mean about
21 Molina.

22 A. Yes.

23 Q. As opposed to some other issue.

24 A. Yes, sir.

25 Q. Okay. And he was scared, wasn't he, about

1 these rumors?

2 A. He didn't appear to be scared to me.

3 Q. Let me ask you this: You knew, before you
4 started recording Mr. Perez, that he knew about the
5 rumors?

6 A. Yes.

7 Q. And you used that, did you not, to get
8 Mr. Perez to talk to you about Molina?

9 A. Yes.

10 Q. I think you described that as a pressure
11 point.

12 A. Yes.

13 Q. So that was a pressure point that you used
14 to get Mr. Perez to talk to you?

15 A. Yes.

16 Q. Because you were tasked by Agent Acee to
17 try to get Mr. Perez to talk about Molina; right?

18 A. Yes, he asked me --

19 Q. The answer is yes; right, Mr. Cordova?

20 A. Yes.

21 Q. Okay. And do you agree with me that you
22 understood that somebody was going to move on

23 Mr. Perez?

24 A. No.

25 Q. So --

1 A. Nobody was going to move on Mr. Perez.

2 Q. So you disagree that -- with the statement
3 that they were going to move on Mr. Perez because he
4 thought -- because they thought he was talking?

5 A. Yes.

6 Q. You disagree with that?

7 A. Yes.

8 Q. Do you agree -- do you disagree with the
9 statement that they were going to move on Mr. Perez
10 because they thought he was a cooperator?

11 A. Yes, I disagree because there was never
12 proof.

13 Q. So Mr. Cordova, this isn't the first time
14 you've testified about this, is it?

15 A. No, sir.

16 Q. You've given testimony in this case
17 before?

18 A. Yes, when you guys pulled me out.

19 Q. So Mr. Cordova, the answer is yes; right?

20 A. What's yes?

21 Q. That you've given testimony in this case
22 before? Yes or no.

23 A. Yes.

24 Q. And the testimony was in this courtroom?

25 A. Yes.

1 Q. It might have been -- it was in this
2 building?

3 A. It was in this building, I know that.

4 Q. In front of Judge Browning?

5 A. Yes, sir.

6 Q. And you took an oath to tell the truth at
7 that hearing, correct?

8 A. Yes, sir.

9 Q. And you testified to Judge Browning?

10 A. Yes, sir.

11 Q. And I assume when you were testifying to
12 Judge Browning that you took your oath to tell the
13 truth seriously.

14 A. Yes, sir.

15 Q. It's the same oath that you took in this
16 trial?

17 A. Yes, sir.

18 Q. The same oath that Judge Browning --

19 A. It's the same oath.

20 Q. Okay. Then let me ask you another
21 question, Mr. Cordova. It's the same oath that
22 Judge Browning reminds you about each time we come
23 back from a break?

24 A. Yes, sir.

25 Q. The oath that you're under right now?

1 A. Yes, sir.

2 MR. VILLA: May I approach, Your Honor?

3 THE COURT: You may.

4 BY MR. VILLA:

5 Q. Mr. Cordova, I'm showing you a transcript
6 of that hearing that we had back in December. Do
7 you remember that?

8 A. Yes, sir.

9 Q. It says up here that it's Billy Cordova?

10 A. Yes, sir.

11 Q. Okay. So I'm going to flip over to paper
12 241 of that transcript. Do you see this?

13 A. Yes, sir.

14 Q. Okay. I'm going to read your answer here.
15 You said, "When we were at the North everybody was
16 talking. They even thought he was talking." You're
17 talking about Mr. Perez?

18 A. Yes, sir.

19 Q. "They were going to move on him because
20 they thought he was talking."

21 A. Yes, sir.

22 Q. You said that?

23 A. Yes, sir.

24 Q. Now, I'm going to flip over to page 242.

25 Do you remember I asked you the question, "You used

1 the term they were going to move on him; right? Did
2 I say that right?"

3 A. Yes, sir.

4 Q. And you answered, "You said that right."

5 A. Yes, sir.

6 Q. And then I asked you, "And so they were
7 going to move on him, meaning members of the SNM
8 were going to move on Mr. Perez because they thought
9 he was cooperating?"

10 And you answered, "Yes."

11 A. Yes.

12 Q. That was your testimony?

13 A. Yes, sir.

14 Q. Mr. Cordova, you would agree with me that
15 that hearing occurred December 12, 2017?

16 A. Yes, sir.

17 Q. Is that when you gave that testimony that
18 I just read to you?

19 A. Yes, sir.

20 Q. And maybe it was the 11th or the 13th, but
21 around that time?

22 A. Around that time.

23 Q. Right? And about that time, you used
24 drugs in the prison where you were incarcerated,
25 didn't you?

1 A. Yes, sir.

2 Q. You used Suboxone?

3 A. Yes, sir.

4 Q. Methamphetamine?

5 A. Yes, sir.

6 Q. Heroin?

7 A. Yes, sir.

8 Q. And spice?

9 A. Yes, sir.

10 Q. And spice is like synthetic marijuana;

11 right?

12 A. Yes, sir.

13 Q. And all of those things that you used

14 about that time when you gave that testimony are

15 illegal; right?

16 A. Yes, sir.

17 Q. Did you use them during that hearing?

18 A. No, sir.

19 Q. Before that hearing?

20 A. Yes, sir.

21 Q. You used them before that hearing?

22 A. Not that day, but the time prior to it in

23 the prison system, yes.

24 Q. And we're talking just a couple of days

25 before this hearing; right?

1 A. About two weeks before that hearing.

2 Q. Okay. About two weeks before that hearing
3 you used those drugs?

4 A. Yes, sir.

5 Q. And you testified at that hearing about
6 your drug use, didn't you?

7 A. Yes, sir.

8 Q. And you testified under that same oath,
9 the same oath that you took today, that you hadn't
10 used drugs in two years, didn't you?

11 A. No.

12 Q. So, time out. Your answer was no?

13 A. No.

14 Q. Okay. So you didn't give that testimony
15 at that hearing?

16 A. You guys asked me, "When is the last
17 time --

18 Q. Mr. Cordova, let me ask you the question,
19 okay? To make sure you understand. It's a yes or
20 no question. Are you telling this jury that you did
21 not testify at that hearing that you hadn't used
22 drugs in a couple of years?

23 A. No.

24 Q. You didn't say that?

25 A. No.

1 Q. Mr. Cordova, I'm showing you the
2 transcript again; right? Do you see it?

3 A. Yes, sir.

4 Q. And if you need to move the mic, that's
5 fine. So Mr. Cordova, at that hearing I asked you
6 the question: "Putting aside the prescription pill
7 issue, I'm talking about illegal drugs. When was
8 the last time you used an illegal drug?" I asked
9 that question; right?

10 A. Yes, sir.

11 Q. And your answer was "An illegal drug?
12 It's been a good minute." You said that; right?

13 A. Yes, sir.

14 Q. And I asked you, "What is a good minute?"
15 Didn't I?

16 A. I think what I was understanding --

17 Q. Mr. Cordova, did I ask you: "What is a
18 good minute?"

19 A. I might have misunderstood the question.

20 Q. Hang on. You'll get a chance to explain.

21 A. All right.

22 Q. Okay? But my question to you --

23 A. If that's what it says there, then that's
24 what I said.

25 Q. Okay. And your answer was, "A good minute

1 is like about a couple of years ago."

2 A. Yes, sir.

3 Q. You said that.

4 A. That's what it says.

5 Q. And then I asked you the question, "A
6 couple years ago?" Right?

7 A. That's what it says.

8 Q. And you said, "Yes, sir"?

9 A. Yes, sir.

10 Q. And just to be sure, I asked you, "And you
11 haven't used any illegal drugs or nonprescribed
12 drugs intentionally since then; right?"

13 A. I guess that's what it says right there.

14 Q. And your answer was, "Yes, sir"?

15 A. Yes, sir.

16 Q. And I guess, Mr. Cordova, that when you
17 gave those answers, you gave them under the same
18 oath that you took today?

19 A. Yes, sir.

20 Q. The oath that Judge Browning gave you and
21 reminded you about?

22 A. Yes, sir.

23 Q. And you would agree with me that the drugs
24 that you took before that hearing, that you just
25 told the jury you took before that hearing, were

1 illegal drugs?

2 A. Yes, sir.

3 Q. That were not prescribed?

4 A. Yes, sir.

5 Q. Nobody prescribed you Suboxone?

6 A. No, sir.

7 Q. Nobody prescribed you methamphetamine?

8 A. No, sir.

9 Q. Nobody prescribed you heroin?

10 A. No, sir.

11 Q. Nobody prescribed you spice?

12 A. No, sir.

13 Q. At the time you got next to Mr. Perez, you
14 knew that he was not in good health?

15 A. Yes, sir.

16 Q. You knew that he had to go to medical
17 quite often?

18 A. Yes, sir.

19 Q. And when he went to medical, they would
20 take him out of the cell and take him away to go see
21 a doctor or a nurse or somebody?

22 A. Yes, sir.

23 Q. And you knew that at the time that you
24 talked to Mr. Perez, the recordings that we saw is
25 the timeframe we're talking about, that he took a

1 lot of medication?

2 A. Yes, sir.

3 Q. You knew about at least three of them?

4 A. Yes, sir.

5 Q. And that he needed a wheelchair every time
6 he had to leave the cell to go to medical or
7 somewhere else?

8 A. Yes, sir.

9 THE COURT: Mr. Villa, would this be a
10 good time? We've been going about an hour and a
11 half, but the jury hasn't been in here that long,
12 but I need to give Ms. Bean a break.

13 MR. VILLA: Yes, Your Honor.

14 THE COURT: Would this be a good place?
15 All right. We'll be in recess for about 15 minutes.
16 All rise.

17 (The jury left the courtroom.)

18 THE COURT: All right. We'll be in recess
19 for about 15 minutes.

20 MR. VILLA: Can we take up something
21 outside the presence of the jury after the recess?

22 THE COURT: Yeah, let's do it afterwards.

23 (The Court stood in recess.)

24 THE COURT: All right. Let's go on the
25 record.

1 Mr. Villa, Ms. Fox-Young, you had
2 something you want to raise before we bring the jury
3 in?

4 MR. VILLA: Yes, Your Honor. And I'd like
5 to do it outside the presence of the witness, so we
6 could approach the bench, if you'd like.

7 THE COURT: Why don't y'all approach,
8 here.

9 (The following proceedings were held at
10 the bench.)

11 MR. VILLA: Your Honor, Mr. Cordova just
12 testified that he was not being truthful at the
13 suppression hearing. He testified that a couple
14 weeks before the suppression hearing, he used
15 Suboxone, methamphetamine, heroin, and spice, and
16 that he testified at the suppression hearing that he
17 hadn't used drugs in over two years; and that this
18 Court, in denying Mr. Perez' motion to suppress,
19 found Mr. Cordova credible, I assume in part based
20 upon his testimony and what the Court observed.

21 Now that he's admitted that he was not
22 truthful at that hearing, we're asking you to
23 reconsider your ruling and find Mr. Cordova was not
24 credible and grant Mr. Perez' motion to suppress.

25 THE COURT: All right. Well, I'll deny

1 that motion. I didn't find Mr. Perez credible.
2 Here, I don't know which is the truth, but I thought
3 that his statements, which were corroborated in
4 large part with the tapes that I've heard, were
5 consistent with the truth, still more so than what
6 Mr. Perez' testimony was at the hearing. So I still
7 think that, in large part, he was still truthful. I
8 don't know on this particular issue, issues that
9 you've raised this morning, whether he was telling
10 the truth then or now, but I think the core issues
11 that I had to decide at the motion to suppress, I
12 still find his testimony because it's corroborated
13 in large part by the transcripts and the tapes that
14 I've reviewed. So I'll deny that request.

15 MS. BHALLA: Your Honor, if I may, just
16 for the record. Defendant Herrera joins that motion
17 for all of the reasons reiterated by Mr. Villa, but
18 also in addition to the fact that part of the
19 testimony was that he wasn't providing drugs to our
20 client because he wasn't able to get drugs. Clearly
21 that wasn't the case when he was using drugs two
22 weeks before the suppression hearing, Your Honor.

23 MR. CASTELLANO: At a different facility.

24 THE COURT: All right.

25 (The following proceedings were held in

1 open court.)

2 THE COURT: To the extent Ms. Bhalla
3 joined it, I'll deny that motion as well.

4 All right. All rise.

5 (The jury entered the courtroom.)

6 THE COURT: All right. Everyone be
7 seated.

8 All right, Mr. Cordova. I'll remind you
9 that you're still under oath.

10 Mr. Villa, if you wish to continue your
11 cross-examination of Mr. Cordova, you may do so at
12 this time.

13 MR. VILLA: Thank you, Your Honor.

14 THE COURT: Mr. Villa.

15 BY MR. VILLA:

16 Q. Mr. Cordova, before we took a break, I was
17 asking about Mr. Perez' health. In fact, you knew
18 back in March of 2014, when Mr. Perez was in the
19 blue pod in Southern New Mexico, that he had health
20 issues?

21 A. Yes, sir.

22 Q. I believe on your direct testimony you
23 talked about how Ron Sanchez was tasked with helping
24 Mr. Perez, bringing him his food tray, take him
25 around on the wheelchair if he needed to go

1 somewhere in the facility, true?

2 A. Yes, sir.

3 Q. Did you know whether Mr. Sanchez was
4 actually being paid by the facility to do that?

5 A. I'm unaware of that.

6 Q. And it's true that Mr. Perez, during that
7 time in the fall -- or, excuse me, in the spring of
8 2014, before Mr. Molina's death, he didn't go out of
9 the cell very often, did he?

10 A. I don't know.

11 MR. CASTELLANO: Objection. Lack of
12 foundation.

13 A. I wasn't in the pod.

14 THE COURT: Well, lay some foundation.

15 MR. VILLA: I think he just said he didn't
16 know about that.

17 BY MR. VILLA:

18 Q. So you weren't in the blue pod to know
19 whether he came out of his cell?

20 A. Not all the time. I didn't know that.

21 Q. When the yellow pod went out to the yard,
22 did he go out to the yard with the blue pod?

23 A. Occasionally, yes, he'd go out sometimes.

24 Q. But not every time?

25 A. Like I said, we were in different pods.

1 But occasionally I would see him out there in the
2 yard, yes.

3 Q. And did you see Mr. Perez out there in the
4 yard?

5 A. There was times I seen him, yes.

6 Q. Was there times when you saw blue pod out
7 in the yard but Mr. Perez was not in the yard?

8 A. Yes.

9 Q. When you saw Mr. Perez in the yard, he
10 was -- just from looking at him, you could tell that
11 he wasn't in good health?

12 MR. CASTELLANO: Objection, relevance.

13 THE COURT: Overruled.

14 A. Yes, I knew he wasn't in all that
15 condition, yes.

16 BY MR. VILLA:

17 Q. He used a walker or a wheelchair when he
18 was out of the pod, that you knew?

19 A. Yes, sir.

20 Q. And then in the fall of 2015, when you
21 were both at PNM North together, before you met with
22 Agent Acee, you said you were in the pod with Mr.
23 Perez in the X pod?

24 A. Yes, sir.

25 Q. And his health was similar?

1 A. Same, yes, sir.

2 Q. And when you got put next to Mr. Perez in
3 2016 in the spring -- or, excuse me, in the winter,
4 January and February, again, his health was the
5 same?

6 A. Yes, sir.

7 Q. Having to go to medical a lot?

8 A. I don't know. I wasn't -- I never seen
9 him leave to go to medical when I was there with
10 him.

11 Q. Well, he had a -- outside of the pod --
12 excuse me, outside of the cell where you were next
13 to him, they kept his wheelchair there; right?

14 A. Yes, sir.

15 Q. So you knew he still needed a wheelchair?

16 A. Yes, sir.

17 Q. And medical would often come to him and
18 bring him medicine; right?

19 A. Yes, sir.

20 Q. That's how you understood that he got
21 medicine brought to him on a daily basis?

22 A. Yes, sir.

23 Q. You also knew, did you not, that Mr. Perez
24 had been in PNM North for a long time?

25 A. Yes, sir.

1 Q. At the time that you started recording him
2 and talking to him, you knew he had been there at
3 least since the fall of 2015?

4 A. Yes, sir.

5 Q. And let me show you what's already been
6 admitted, I believe it is Defendants' V24, Mr.
7 Perez' location history. And we'll just go from
8 June 2015 forward.

9 Mr. Cordova, have you ever seen -- I guess
10 you saw them on your direct examination, but the
11 physical location histories?

12 A. Yes, sir.

13 Q. And this is the location history, it's
14 already been admitted into evidence for Mr. Perez.
15 Do you see that?

16 A. Yes, sir.

17 Q. So starting at June 2015, it indicates
18 here that Mr. Perez went to PNM. Do you see that?

19 A. Yes, sir.

20 Q. And he's placed -- the next line tells us
21 that he's placed in the North, 3-B, X pod; right?

22 A. Yes, sir.

23 Q. And if you need to adjust the mike, don't
24 hesitate.

25 And then after that -- so he's there.

1 Excuse me. He's there June 17th until October 20,
2 2015; right? In the X pod?

3 A. Yes, sir.

4 Q. And the next line up, from October 20
5 through April 18, he's then in the North 3-A Q pod;
6 right?

7 A. Yes, sir.

8 Q. And the Q pod is where you were placed
9 next to him; you were in cell 102 and Mr. Perez was
10 in cell 101, correct?

11 A. Yes, sir.

12 Q. So at least according to this document,
13 Mr. Perez was at PNM North from June 2015 through
14 February when you were recording him?

15 A. Yes, sir.

16 Q. And then he was there a couple months
17 after that, correct?

18 A. I don't know a couple months after that.

19 Q. Just according to this document.

20 A. Yes, sir.

21 Q. Now, the cell that -- and thank you for
22 that document.

23 The cell that Mr. Cordova was in, and you
24 were next to him, was in the bottom tier of the pod;
25 right?

1 A. Yes, sir.

2 Q. The pod has two tiers of cells, one on the
3 bottom, one on the top?

4 A. Yes, sir.

5 Q. And I don't remember how many cells are on
6 each tier. Do you remember?

7 A. Yes, sir.

8 Q. How many?

9 A. 12.

10 Q. So there is 12 on the bottom, 12 on top?

11 A. Six on bottom, six on top.

12 Q. I understand. So six cells on the bottom,
13 six cells on the top?

14 A. Yes, sir.

15 Q. And cell 101 is, if you're looking at the
16 cells, it's the far left-hand side, correct?

17 A. Yes, sir.

18 Q. So it's in the corner; right?

19 A. Yes, sir.

20 Q. And cell 102, the cell that you were in
21 next to Mr. Perez, is immediately to the right of
22 that?

23 A. Yes, sir.

24 Q. And if you're in your cell, cell 102,
25 you've got a neighbor on either side; right?

1 A. Yes, sir.

2 Q. And using those vents that you talked
3 about on your direct, you could talk to either one
4 of your neighbors?

5 A. Yes.

6 Q. But if you're in cell 101, like Mr. Perez
7 was, he's only got a neighbor on one side?

8 A. Yes, sir.

9 Q. And at the time that you were talking to
10 Mr. Perez and recording him, you were the only
11 neighbor?

12 A. Yes, sir.

13 Q. And it wasn't just happenstance that you
14 got put next to Mr. Perez. You were put next to him
15 just days after meeting with Agent Acee?

16 A. Yes, sir.

17 Q. Telling him that, in exchange for not
18 getting prosecuted in this case or in a RICO case,
19 you could try to record Mr. Perez?

20 A. Yes, sir.

21 Q. And, in fact, the rumors that we talked
22 about about Mr. Perez, you knew about those before
23 you ever got next to Mr. Perez, because you'd heard
24 about them in the year prior, in the fall of 2015?

25 A. Yes, sir.

1 Q. When you're in PNM North, that's the
2 highest level of restriction on an inmate; right?

3 A. Yes, sir.

4 Q. So you're in a cell. How big is the cell?

5 A. I don't know.

6 Q. How often do you get to get out of the
7 cell?

8 A. An hour for five days a week. Five times
9 a week, you come out for an hour. So Monday through
10 Friday, you come out for an hour yard and you get
11 your showers Monday through Friday. Saturday and
12 Sunday, there is no movement.

13 Q. So that Monday through Friday is the hour,
14 does that include the yard and the shower?

15 A. Yes. For them units, yes. For them two
16 units, 3s are like that.

17 Q. All right. So while you were there, you
18 get to go out of the cell all of one hour of 24
19 hours in a day?

20 A. You get your shower and then an hour rec.

21 Q. I see. Okay. So the shower doesn't cut
22 into the hour time?

23 A. No, sir.

24 Q. The rec time is when you get to go
25 outside?

1 A. Yes, sir.

2 Q. You go outside and you're in a cage;
3 right?

4 A. Yes, sir.

5 Q. The cages, we've heard some testimony, but
6 are they about 7 by 7?

7 A. No, sir, they're bigger.

8 Q. They're bigger. Are there different size
9 cages?

10 A. Yes, sir.

11 Q. Some are smaller, some are bigger?

12 A. Yes, sir.

13 Q. And Saturday and Sunday, you don't get to
14 get out?

15 A. No, sir.

16 Q. We heard you talk about it on direct,
17 while you're in those cells, you only get to make
18 four phone calls a month?

19 A. It depends what status you're on. So I'm
20 pretty sure it was four, right around four. SNM was
21 on four because of the violence we were inflicting
22 in the prison system, yes.

23 Q. So at that time while you were recording
24 Mr. Perez, it was four calls?

25 A. Yes, sir.

1 Q. No visits with family?

2 A. Yes, sir, there were visits. Four visits
3 a month.

4 Q. Four visits. Not contact visits; right?

5 A. No, sir.

6 Q. The visits are over the phone?

7 A. No, through a glass.

8 Q. Through a glass. I understand.

9 So four visits a month, four phone calls a
10 month. What other restrictions did you have while
11 you were in there?

12 A. I don't know of any other restrictions.
13 You're in your cell.

14 Q. And you don't get what we call tier time;
15 right?

16 A. No, you get your TV in your cell, cable
17 TV. And you get your radio.

18 Q. And tier time is when you actually get to
19 come out of the cell and just walk along the tier?

20 A. Yes, sir.

21 Q. Which is not something you get while
22 you're -- while you were there, at least at the time
23 recording Mr. Perez?

24 A. Those units, no. But in other units, at
25 the PNM North, yes, you get tier time.

1 Q. So the units that you were in while you
2 were recording Mr. Perez, no tier time?

3 A. Yes, sir.

4 MR. VILLA: Your Honor, at this time I'd
5 like to move Exhibit Q into evidence. It's a video
6 from the PNM Q pod. I don't think there is an
7 objection.

8 THE COURT: Any objection, Mr. Castellano?

9 MR. CASTELLANO: Exhibit Q, Your Honor?

10 THE COURT: Yes.

11 MR. CASTELLANO: No objection.

12 THE COURT: Anybody else have any
13 objection? Not seeing any or hearing any,
14 Defendants' Exhibit Q will be admitted into
15 evidence.

16 (Defendants' Exhibit Q admitted.)

17 BY MR. VILLA:

18 Q. Now, Mr. Cordova I'm going to get this
19 started. I'll represent to you that the video was
20 taken, I believe in the summer of 2017. So I'll ask
21 you some questions about if there is anything
22 different. But we'll start the video now.

23 (Tape played.)

24 Q. Let's pause it there. So, Mr. Cordova,
25 I'm showing you Exhibit Q, it's a video. Can you

1 see on your screen down at the bottom there is this
2 time stamp?

3 A. Yes, sir.

4 Q. So just for the record, I'm going to refer
5 to the time stamp when I pause it.

6 Right now I've paused it, it says the date
7 is June 6, 2017, and the time is 14:46:04, correct?

8 A. Yes, sir.

9 Q. What we see in this picture are three
10 cells. I'm just underlying the one, two and three,
11 do you see that there?

12 A. Yes, sir.

13 Q. And Q101 that I've just circled, that's
14 where Mr. Perez was?

15 A. Yes, sir.

16 Q. And there isn't any cell next to Mr. Perez
17 on the left-hand side of this view, correct?

18 A. No, sir.

19 Q. Q102, that's where you were; right?

20 A. Yes, sir.

21 Q. And in Q102, you've got a neighbor on this
22 side, Q103; and a neighbor on the other side, Q101?

23 A. Yes, sir.

24 Q. This is how it was when you were there
25 recording Mr. Perez in February?

1 A. Yes, sir.

2 Q. That's February of 2016?

3 A. I believe so.

4 Q. And by the way, that's about 23 months
5 after the Javier Molina murder, correct?

6 A. Yes, sir.

7 Q. Let's continue playing.

8 (Tape played.)

9 Q. Please pause it.

10 I've stopped it now, Mr. Cordova, at
11 14:48:31, correct?

12 A. Yes, sir.

13 Q. And here is sort of a view into the cell
14 Q102; the cell you were in; right?

15 A. Yes, sir.

16 Q. Does the cell look to be about the same
17 size as it was when you were there?

18 A. Yes, sir.

19 Q. And I'm just going to draw a circle. This
20 is a mattress; right?

21 A. Yes, sir.

22 Q. And the mattress is on top of, it's the
23 bunk, isn't it?

24 A. Yes, sir.

25 Q. And that's the same way it was when you

1 were there?

2 A. Yes, sir.

3 Q. And it's underneath the bunk where the
4 vents are; right?

5 A. Yes, sir.

6 Q. Please continue.

7 (Tape played.)

8 Q. Pause it there. And it just came a little
9 bit out of view, but you get a little bit better
10 view of what the cell Q101 looks like; right?

11 A. Yes, sir.

12 Q. And for the record, I paused it at
13 14:48:53; right?

14 A. Yes, sir.

15 Q. And is that cell -- I know it might be the
16 opposite in terms of design, but it's about the same
17 size as your cell; right?

18 A. Yes, sir.

19 Q. Let's continue.

20 (Tape played.)

21 Q. Let's pause it there. Mr. Cordova, we see
22 here at 14:49:00 is the commode; right?

23 A. Yes, sir.

24 Q. And that's where you use the restroom when
25 you're in the cell?

1 A. Yes, sir.

2 Q. You don't get to come out of the cell for
3 a restroom break or anything?

4 A. No, sir.

5 Q. Please continue.

6 (Tape played.)

7 Q. Pause it there, please.

8 Mr. Cordova, we got a little bit better
9 shot. I've paused it now at 14:49:28, of the
10 interior of the room. That's similar to your room,
11 Q102; right?

12 A. Yes, sir.

13 Q. It's not any bigger or smaller that you
14 can see?

15 A. No, sir.

16 Q. And up here at the top is a vent. I think
17 you testified a little bit about this vent, that you
18 can communicate through that vent with your
19 neighbor; right?

20 A. Yes, sir.

21 Q. But the vents that you and Mr. Perez were
22 communicating were the ones under the bed.

23 A. Through both vents you can communicate.
24 That one, you can communicate with the one next to
25 you and the one upstairs. But if you want to be

1 more private, you go underneath the bunk and talk
2 underneath the bunk in the heater vent so that way
3 you and your neighbor have a more private
4 conversation.

5 Q. So what you're talking about here is the
6 person above you, that would be the person upstairs
7 on the upper tier?

8 A. Yes, sir.

9 (Tape played.)

10 Q. Pause it there, please. I've paused it at
11 14:50:06; right?

12 A. Yes, sir.

13 Q. This is the vent that we're talking about;
14 right?

15 A. Yes, sir.

16 Q. We're in the cell that Mr. Perez was in,
17 that's where he would have spoken to you so you
18 could hear him?

19 A. Yes, sir.

20 Q. Let's continue.

21 (Tape played.)

22 Q. Pause it there, please. Mr. Cordova, we
23 just saw in the video going into cell Q102. We've
24 paused it at 14:56:32; is that right?

25 A. Yes, sir.

1 Q. And I know that the items on the desk and
2 other things might have been different than from
3 when you were there, but the cell looks the same as
4 it was when you were there?

5 A. Yes, sir.

6 Q. Let's continue.

7 (Tape played.)

8 Q. I'm going to pause it. So it just shot
9 out of view, but just above the sink, did you see
10 what looked like -- kind of like a spigot or faucet?

11 A. Yes.

12 Q. Can you tell me what that is?

13 A. It's for when people are multiply
14 assaulting staff or they have medical issues where
15 they must take showers every day, they'll have those
16 in those kind of cells. That way they can shower on
17 the weekend.

18 Q. I see. So the shower, if you don't use
19 that, is outside of the cell; correct?

20 A. Yes.

21 Q. It's actually down at the end of the
22 hallway?

23 A. Yes.

24 Q. Please continue.

25 (Tape played.)

1 Q. Let's pause it here. Mr. Cordova, this is
2 paused at 14:57:00; right?

3 A. Yes, sir.

4 Q. And we're looking at the vent underneath
5 the bed in what was your cell; right?

6 A. Yes, sir.

7 Q. So when you were speaking to Mr. Perez,
8 you were underneath your bed talking to him there?

9 A. Yes, sir.

10 Q. And the recording device that you had, you
11 would just put it somewhere on the vent?

12 A. No, sir.

13 Q. Okay. Let me erase that. Tell me, where
14 did you put the recording device?

15 A. Underneath the vent.

16 Q. Oh. So like down here?

17 A. Yes, sir.

18 Q. And I think as you testified with
19 Mr. Castellano, you didn't always have it on when
20 you were underneath there talking to Mr. Perez;
21 right?

22 A. No, sir.

23 Q. Sometimes you're talking about other
24 things, sometimes you're talking about this case and
25 you're waiting to get to the information that you

1 want to record?

2 A. When we talked about this case is when I
3 started recording.

4 Q. So you would turn it on and off when
5 you're talking about the case?

6 A. When I thought there was something that
7 needed to be recorded, that's when I turned it on
8 and recorded it.

9 Q. But as you told the jury, the week before
10 you had this recording device, you did talk to
11 Mr. Perez about the Molina case?

12 A. Yes, sir.

13 Q. You just didn't have the recording device?

14 A. No, sir.

15 Q. Let's continue.

16 (Tape played.)

17 Q. Now, let's pause it there. Mr. Cordova,
18 we can see a little bit here. I've paused it at
19 14:57:24, kind of like a grate underneath the
20 heater; is that what that is?

21 A. It's, yeah, like a screen for the heater.
22 Yeah.

23 Q. Is that where you were doing the
24 recording?

25 A. Yes, sir.

1 Q. And that's where you were doing the
2 talking with Mr. Perez before you had the recording
3 device?

4 A. Yes, sir.

5 Q. And you knew at the time, as you testified
6 to the jury before the break, that Mr. Perez knew
7 about these rumors against him?

8 A. Yes, sir.

9 Q. And I know you testified that -- well, you
10 testified in the previous hearing, as I showed you,
11 that they were going to move on him. You testified
12 today that that wasn't going to happen. But the
13 term "Moving on" somebody, what does that mean?

14 A. The talk was -- is that if he didn't --

15 Q. Mr. Cordova, let me get you to answer my
16 question because I don't think you're answering it.

17 When you used the term "move on" somebody,
18 what does that --

19 A. That means you're going to hit them.

20 Q. Let me finish the question. What does
21 that term mean?

22 A. It means you're going to hit them.

23 Q. And "hitting" somebody means what?

24 A. It means to murder them.

25 Q. So to kill somebody?

1 A. Yes.

2 Q. And it's never good, is it, if you have a
3 rumor against you that you might be cooperating with
4 the Government?

5 A. No, sir.

6 Q. That's a rumor that could lead to you
7 getting hit?

8 A. Yes, sir.

9 Q. Let's continue.

10 (Tape played.)

11 Q. Let's pause it there. And I think that's
12 good for the video for now. So, Mr. Cordova, that
13 cell that we saw was the same cell you were in when
14 you recorded Mr. Cordova -- excuse me, when you
15 recorded Mr. Perez?

16 A. Yes, sir.

17 Q. And at the time that you were there, you
18 didn't get to get out of that cell but five times a
19 week?

20 A. Yes, sir.

21 Q. Monday through Friday?

22 A. Yes, sir.

23 Q. As far as you know, the same rules applied
24 to Mr. Perez while you were there?

25 A. Yes, sir.

1 Q. And while he's talking to you, we saw some
2 of it on the recording, we'll get into it in just a
3 minute, but he told you that he was keeping his
4 mouth shut and he wasn't talking to anybody; right?

5 A. Yes, sir.

6 Q. He denied that he had spoken to STIU?

7 A. Yes, sir.

8 Q. STIU, we've heard a lot about them, but
9 that's the Security Threat Intelligence Unit?

10 A. Yes, sir.

11 Q. The folks that investigate gang activity
12 inside the prison?

13 A. Yes, sir.

14 Q. And he knew that you had a pretty, at
15 least at the time -- at least he thought -- you had
16 a pretty big role in the SNM; right?

17 A. Not a big role, but I was a soldier, yes.

18 Q. You were pretty well known?

19 A. Yes, sir.

20 Q. He knew that you could spread the word
21 that he wasn't cooperating?

22 A. Yes, sir.

23 Q. Because that might protect him from
24 getting hit?

25 A. Incorrect.

1 Q. Well, at least he was trying to protect
2 himself, wasn't he?

3 A. He was defending his honor, but --

4 Q. Well, let me ask the question. Yes or no,
5 was he trying to protect himself?

6 MR. CASTELLANO: Objection. Calls for
7 speculation.

8 THE COURT: Ask him if he knows first.
9 Lay some foundation.

10 BY MR. VILLA:

11 Q. Do you know if, in the communications that
12 you and Mr. Perez had, he was trying to protect
13 himself?

14 A. I have no way of influence on getting one
15 hit in the onda unless there is black and white.
16 That's not my job.

17 Q. I'm not asking you about your influence.
18 I'm asking you about whether -- you got to interpret
19 a lot of these communications with Mr. Perez, so I'm
20 asking you, was Mr. Perez trying to protect himself?
21 Yes or no.

22 A. Protect his honor, yes.

23 Q. Protect his safety from getting hurt?

24 A. No.

25 Q. So you don't know that?

1 A. No, I know he wasn't trying to do that
2 because I can't get him hit on a rumor.

3 Q. You can't get inside Mr. Perez' head, can
4 you?

5 A. No, sir.

6 Q. And based on all of the communications
7 that you had with Mr. Perez, including before the
8 recording and some in the recording, you thought
9 that Mr. Perez had actually himself provided the
10 piece from his walker; right?

11 A. Yes.

12 Q. But you don't actually know what happened,
13 how that piece came off his walker and ultimately
14 ended up in the hands of the men who killed
15 Mr. Molina, do you?

16 A. I didn't see it.

17 Q. Okay. So that's what I'm asking. I'm not
18 asking what people told you.

19 A. Yes.

20 Q. Okay. You don't know the person that
21 actually took the piece off of Mr. Perez' walker
22 because you didn't see it?

23 A. No, sir.

24 Q. You don't know what Mr. Perez said to that
25 person at the time, because you weren't in the cell

1 at the time?

2 A. No, sir.

3 Q. And in the yellow pod, at least at the
4 time it happened, you weren't in earshot to be able
5 to hear what Mr. Perez said?

6 A. I only knew what he told me. That was it.

7 Q. You knew what he told you in February of
8 2016?

9 A. I only knew what he said and what other
10 individuals were talking about in the yard. That
11 was it.

12 Q. Okay. And when I say, "What Mr. Perez
13 told you," I'm talking about what he told you in
14 February of 2016?

15 A. Yes, sir.

16 Q. Because he hadn't told you anything before
17 you got put next to him; right?

18 A. No, sir.

19 Q. You said that you didn't have the ability
20 to call a hit on somebody at the time you spoke to
21 Mr. Perez; right?

22 A. Yes, sir. Not on another brother, no.

23 Q. Say that again.

24 A. I don't have the ability to call a hit on
25 a rumor on another brother. It's not part of the

1 rules.

2 Q. Well, let me ask you this. It's the
3 shot-callers that call hits according to you; right?

4 A. Yes.

5 Q. Were you a shot-caller at the time?

6 A. No, sir.

7 Q. So if there was a shot-caller in place,
8 they could call a hit; right?

9 A. Only if there is black and white, yes.

10 Q. Well, according to you; but not
11 necessarily according to every shot-caller in the
12 SNM; right?

13 A. No. That's the way the rules are. You
14 need proof, you need black and white.

15 Q. If the rules get followed?

16 A. Yes.

17 Q. Rules aren't always followed, are they?

18 A. In the past they weren't.

19 Q. Let's talk a little bit about that. There
20 is a rule that you're not supposed to fraternize or
21 have relations with another brother's wife or
22 girlfriend; right?

23 A. Yes, sir.

24 Q. And so if you're in the SNM, you're
25 supposed to follow that rule?

1 A. Yes, sir.

2 Q. That rule isn't always followed, is it?

3 A. No, sir.

4 Q. As a matter of fact, it wasn't followed in
5 your case, was it?

6 A. No, sir.

7 Q. Another SNM member had had some kind of
8 relationship with your wife Crystal?

9 A. Yes, sir.

10 Q. And you found out about it?

11 A. Yes, sir.

12 Q. And you were going to kill your wife and
13 the other SNM member, weren't you?

14 A. Yes, sir.

15 Q. But you then, and I don't want to get into
16 the conversation, but then you had a conversation
17 with Gerald Archuleta; right?

18 A. Yes, sir.

19 Q. The guy that goes by Styx?

20 A. Yes.

21 Q. And after that conversation, you decided
22 you weren't going to kill them both?

23 A. Yes, sir.

24 Q. And then I think you got out of prison at
25 some point; right?

1 A. Yes, sir.

2 Q. And were back with your wife Crystal?

3 A. Yes, sir.

4 Q. And you testified about this on direct,
5 you said that you beat her up pretty badly.

6 A. Yes, sir.

7 Q. And it's your testimony to this jury that
8 that's something, that was an SNM beating that you
9 inflicted?

10 A. You can say that.

11 Q. Well, I did say that. Would you say that?

12 A. Yes, sir.

13 Q. Okay. I mean, that's what you told the
14 jury?

15 A. Yes, sir.

16 Q. And you were convicted of committing
17 aggravated assault on your wife; right?

18 A. Yes, sir.

19 Q. Sent back to prison?

20 A. Yes, sir.

21 Q. True?

22 A. Yes, sir.

23 Q. It's true, is it not, that that's not what
24 the police were told about the reason for you
25 beating up your wife?

1 A. No, it wasn't the reason.

2 Q. The SNM reason.

3 A. No.

4 Q. They were told something else?

5 A. Of course.

6 Q. And I think you said on direct examination
7 that you beat your wife pretty badly?

8 A. Yes, sir.

9 Q. You -- in fact, you broke her jaw, didn't
10 you?

11 A. Yes, sir.

12 Q. Broke her finger?

13 A. Yes, sir.

14 Q. Caused her internal injuries?

15 A. Yes, sir.

16 Q. Internal bleeding?

17 A. Yes, sir.

18 Q. Broken ribs?

19 A. Yes, sir.

20 Q. All for what you say was for the SNM?

21 A. Yes, sir.

22 Q. And that's the same wife that we heard you
23 talking to on the phone; right?

24 A. Yes, sir.

25 Q. That you were lying to about what was

1 going on between you and Agent Acee?

2 A. Yes, sir.

3 Q. And so that took place I think 2010; is
4 that right?

5 A. Yes, sir.

6 Q. And I guess at that point, when you got
7 out of prison and it's 2010, you weren't
8 disillusioned with the SNM?

9 A. No, sir.

10 Q. So much so that you would beat your own
11 wife the way you did?

12 A. Yes, sir.

13 Q. And before that, you did some other things
14 for the SNM that you didn't necessarily testify
15 about on direct, did you?

16 A. Yes, sir.

17 Q. As part of some of the things you did in
18 the SNM, you water boarded people, didn't you?

19 A. Yes, sir.

20 Q. Tell the jury what that is.

21 A. You get an individual, tie them up. You
22 put a cloth over their face, a wet cloth. And then
23 what it does is you pour water over their face so it
24 drowns them just enough to keep them alive but not
25 to kill them. And it tortures them. It's painful.

1 Water gets in their lungs and they've got to cough
2 it back up.

3 Q. And you did that --

4 A. Yes, sir.

5 Q. -- to people?

6 A. Yes, sir.

7 Q. Human beings?

8 A. Yes, sir.

9 Q. Now, you testified a little bit about an
10 individual named Arturo Garcia; right?

11 A. Yes, sir.

12 Q. Arturo Garcia was somebody who was an SNM
13 member?

14 A. Yes, sir.

15 Q. And I think you said he was on the tabla?

16 A. Yes, sir.

17 Q. And you didn't necessarily like everything
18 that Arturo Garcia was doing, did you?

19 A. No, sir.

20 Q. So you planned to kill him?

21 A. Yes, sir.

22 Q. And you at that time were a soldier;
23 right?

24 A. Yes, sir.

25 Q. You weren't a shot-caller?

1 A. No, sir.

2 Q. But you were going to kill a shot-caller?

3 A. Yes, sir.

4 Q. That's a pretty bold move, isn't it?

5 A. Well, none of the other brothers were
6 agreeing to it.

7 Q. Yes or no, is it a bold move?

8 A. Yes, it is.

9 Q. And I imagine there is probably a rule in
10 the SNM about a soldier trying to kill a
11 shot-caller?

12 A. At that time he was already X'd out from
13 being a shot-caller.

14 Q. Is there a rule? Yes or no.

15 A. Yes. But he wasn't a shot-caller at that
16 time.

17 Q. Okay. There were some folks that were on
18 Mr. Garcia's side; right?

19 A. Yes.

20 Q. And others that were on the side like you
21 were on, that wanted to kill Mr. Garcia?

22 A. Yes, sir.

23 Q. And all of these folks were in the SNM?

24 A. Yes, sir.

25 Q. So they weren't necessarily agreeing with

1 each other about how to handle it, were they?

2 A. No, sir.

3 Q. And I think you testified about this a
4 little bit on direct, that ultimately you concluded
5 there is no loyalty in the SNM?

6 A. No, there's not.

7 Q. People don't necessarily follow along with
8 what they're supposed to follow along with.

9 A. Nope.

10 Q. Or do what they're supposed to do?

11 A. Nope.

12 Q. And as a matter of fact, were you -- well,
13 strike that.

14 Before you cooperated or agreed to help
15 Agent Acee, was there a hit placed on you by the
16 SNM?

17 A. There was -- I survived many political
18 wars, yes.

19 Q. So the answer to my question is somebody
20 in the SNM wanted to hit you?

21 A. Yes, sir.

22 Q. And that was in place at the time that you
23 agreed to cooperate with Agent Acee?

24 A. No, sir.

25 Q. You're saying it wasn't?

1 A. No, sir.

2 Q. Now let's talk a little bit about what
3 Agent Acee could have charged you with. We talked
4 about RICO; right?

5 A. Yes, sir.

6 Q. And isn't it true that you were being
7 looked at by Agent Acee for the murder of Sammy
8 Chavez?

9 A. Yes, sir.

10 Q. Sammy Chavez is a person that was killed
11 in the streets of Albuquerque; I think you testified
12 about that.

13 A. Yes, sir.

14 Q. You testified about how you explained in
15 great detail to Sergio Rodriguez, another SNM
16 member, how he should carry out the killing?

17 A. Yes, sir.

18 Q. Did you kill Sammy Chavez?

19 A. No, sir.

20 Q. You didn't do that?

21 A. No, sir.

22 Q. I think it was your testimony, and maybe
23 I've got it wrong, but that you went to prison
24 before it happened?

25 A. Yes, sir.

1 Q. So you weren't able to do it?

2 A. No, sir.

3 Q. But it's true, though, that you bragged
4 that you killed Sammy Chavez, didn't you?

5 A. No, sir.

6 Q. So if a witness came and testified that
7 you bragged to them that you killed Sammy Chavez,
8 you'd disagree with that?

9 A. Yes, I disagree with that.

10 Q. It wouldn't be good to brag about a murder
11 that you didn't commit, would it?

12 A. Yes.

13 Q. And you told the Government, did you not,
14 that Sergio Rodriguez killed Sammy Chavez?

15 A. Yes, sir.

16 Q. And you know that Sergio Rodriguez, as a
17 result of that, has gotten charged with that murder?

18 A. I guess now he did, yeah. If you're
19 saying.

20 Q. I don't know. I'm asking if you know
21 that.

22 A. Oh, I don't know.

23 Q. You don't know?

24 A. You're the one telling me.

25 Q. Okay. But you did tell the Government

1 that?

2 A. Yes, sir.

3 Q. Because you think Sergio Rodriguez killed
4 Mr. Chavez?

5 A. Yes, sir, I believe so.

6 Q. Would it surprise you to learn that
7 Mr. Rodriguez was also in custody in prison at the
8 time Mr. Chavez was murdered?

9 A. Yes, sir.

10 Q. That would surprise you?

11 A. Yes, sir.

12 Q. Because then just like you, he wouldn't be
13 able to kill him?

14 A. Yes, sir.

15 Q. Now, you never did get charged or
16 prosecuted in any way by the federal government
17 having anything to do with the murder of Sammy
18 Chavez?

19 A. No, sir.

20 Q. And you testified a little while ago on
21 direct that you had some -- at least you claimed
22 some involvement in the murder of Javier Molina; or
23 at least you saw the paperwork?

24 A. Yes, sir.

25 Q. But you've never been charged for anything

1 related to that?

2 A. No, sir.

3 Q. You also testified about the robberies and
4 things you were doing when you first came into the
5 SNM?

6 A. Yes, sir.

7 Q. And the kidnapping?

8 A. Yes, sir.

9 Q. You've never been prosecuted by the
10 Government for that, have you?

11 A. No, sir.

12 Q. That was the deal that you understood you
13 were getting when you agreed to work for Agent Acee?

14 A. Yes, sir.

15 Q. But you deny that that deal also included
16 protection for wife Crystal and your mother?

17 A. Yes, sir.

18 Q. Those -- what you told them on the phone,
19 that wasn't true?

20 A. Yes, that wasn't true.

21 Q. Were you also being looked at for -- by
22 Agent Acee for the murder of Shane Dix?

23 A. I wasn't aware of that.

24 Q. Did you murder Shane Dix?

25 A. No, sir, I didn't.

1 Q. Did you brag that you murdered Shane Dix?

2 A. No, sir, I didn't.

3 Q. If a witness came in here to court and
4 said that you bragged to them about the murder of
5 Shane Dix, you would disagree with that?

6 A. Yes, sir.

7 Q. Because you shouldn't be bragging about
8 things you didn't do?

9 A. Yes, sir.

10 Q. Now, let's talk about -- you testified
11 about a murder that you committed on the streets of
12 a Los Carnales member?

13 A. Yes, sir.

14 Q. And you testified that you guys -- you
15 were working with some other members and you got
16 some heroin that was poisonous and provided it to
17 somebody to give to this Los Carnales member?

18 A. Yes, sir.

19 Q. And after you got word that the Los
20 Carnales member was dead, you went into the
21 apartment to get him; right?

22 A. Yes, sir.

23 Q. You had to push the door open to get his
24 body?

25 A. Yes, sir.

1 Q. And wrap it up. And I think you testified
2 that you dumped it in a church.

3 A. Yes, sir.

4 Q. And isn't it true that before you dumped
5 it, you actually pulled open the guy's eyelids to
6 see if he was dead?

7 A. Yes, sir.

8 Q. And you dumped the body. And eventually
9 the body got found.

10 A. Yes, sir.

11 Q. At a church?

12 A. Yes, sir.

13 Q. And you haven't been prosecuted for that?

14 A. No, sir.

15 Q. Because that's the deal that you
16 understood you got for the work you did in this
17 case?

18 A. Yes, sir.

19 Q. All right. Let me talk to you about some
20 of these recordings you have of Mr. Perez.

21 I'm going to show you the transcripts and
22 put them on your screen. The audio that you heard
23 was Exhibit 176 and the transcript is identified as
24 Exhibit 177.

25 Do you see that there on your screen,

1 Mr. Cordova?

2 A. Yes, sir.

3 Q. Do you remember this part where you're
4 asking -- you're the CHS, and you're asking Mr.
5 Perez about "the fucking fierros came from your
6 walker. You think so?" Do you see that there?

7 A. Yes, sir.

8 Q. And Mr. Perez answers, "No. Because, see,
9 what -- where they got me down here under
10 investigation, because Trigger, the first one to
11 give a statement, stating he believed that I
12 literally gave him that piece, you know what I
13 mean?"

14 A. Yes, sir.

15 Q. Now, when Mr. Perez says, "I literally
16 gave him that piece," you understood that to mean
17 like he actually took the piece from the walker and
18 gave it to somebody?

19 A. I guess you can, yeah.

20 Q. So now let's go over to the next page.

21 So Mr. Perez -- let me ask you about this
22 statement here that Mr. Perez made. "Anybody else
23 in Cruces ask me, I didn't have nothing to do with
24 nothing. I didn't know nothing and that's that.
25 You hear me?" Do you see that?

1 A. Yes.

2 Q. And I think you told the jury that that's
3 when Mr. Perez is essentially saying to you that
4 he's not going to talk to anybody?

5 A. Yes, he's not going to rat to
6 administration or law enforcement.

7 Q. And he says right before that sentence,
8 "And, and, what I told you that day, you're the only
9 one that heard -- admitted anything to, Shadow,"
10 right?

11 A. Yes, sir.

12 Q. So he's referring to a previous
13 conversation that the two of you had?

14 A. Yes, sir.

15 Q. And this was the first time you actually
16 recorded him; right?

17 A. Yes, sir.

18 Q. And so he's talking about what he told you
19 happened?

20 A. Yes, sir.

21 Q. Was -- you're the only one he's told that
22 to?

23 A. That's what he said.

24 Q. Not to STIU?

25 A. Yes, sir.

1 Q. Not to the police?

2 A. Yes, sir.

3 Q. Because if he had said something to STIU
4 and that made it into a report, that would be
5 paperwork on Mr. Perez; right?

6 A. Yes, sir.

7 Q. And if that paperwork made it into the
8 hands of somebody, they might want to kill Mr.
9 Perez?

10 A. Yes, sir.

11 Q. And he knew that there were these rumors
12 out there so he's telling you, I didn't talk to
13 anybody else; right?

14 A. Yes, sir.

15 Q. So let's go down just a little bit. So
16 now I'm going to direct your attention over here to
17 this paragraph. And Mr. Perez says -- or, excuse
18 me, you say, "But hey, carnal, when that -- who did
19 that, carnal? Who got the shanks from your walker?
20 You know what I mean? To make them -- to even send
21 the carnals on a mission like that. Ah, that was
22 fucking -- you know what I mean?" Do you see that
23 there?

24 A. Yes.

25 Q. Are you suggesting to Mr. Perez that that

1 was kind of screwed up?

2 A. Yes, sir.

3 Q. I mean, we talked a little bit in your
4 direct examination about sending people who were
5 short timers, are going to get out of prison soon,
6 to do this mission; right?

7 A. Yes, sir.

8 Q. But for Mr. Perez, at least as you
9 understand it, he had -- he's telling you that a
10 piece came from his walker?

11 A. Yes, sir.

12 Q. The walker that he had in his cell?

13 A. Yes, sir.

14 Q. And that after Mr. Molina got killed, it
15 would be pretty well certain, wouldn't it, that
16 somebody would notice a piece missing?

17 A. Yes, sir.

18 Q. That might put a target on Mr. Perez'
19 back?

20 A. No, sir.

21 Q. So you don't -- I don't mean a target from
22 the SNM, I mean a target from the people
23 investigating the murder.

24 A. Yes, sir.

25 Q. So they see in Mr. Perez' cell, you had a

1 walker with a piece and now you don't, that puts
2 Mr. Perez in trouble; right?

3 A. Yes, sir.

4 Q. Does it not? And you're commenting a
5 little bit on that, "You know, that -- fucking, that
6 was -- you know what I mean?" That's what you're
7 saying; right?

8 A. Yes, sir.

9 Q. And then you said, "You think ay. I don't
10 know, carnal, I trip out on the way everything went
11 down. Do you feel me? Do you feel what I'm
12 saying?"

13 A. Yes.

14 Q. When you say you "trip out on the way
15 everything went down," you're talking about you're
16 sort of surprised about how it all went down?

17 A. I wasn't surprised. I was just trying to
18 get him to talk to me and tell me that the fierros
19 came from his waker. That's all it was.

20 Q. When you say the term "trip out," what
21 does that term mean?

22 A. That means you were surprised. But I
23 wasn't surprised.

24 Q. Okay. So the term "trip out" means
25 surprised?

1 A. Yes, sir.

2 Q. And Mr. Perez says here, "Kay, watcha.
3 They come to me and they're like look Big Dog,
4 something has to be taken care of, but we need
5 squina. You don't have to do nothing. You don't
6 have to do nada. You don't have to do fuck. We
7 just need that." Did I read that right?

8 A. Yes, sir.

9 Q. So I think you testified to the jury on
10 direct that he's talking about we need that, the
11 walker?

12 A. Yes, sir.

13 Q. And the word "squina" means help?

14 A. Yes, sir.

15 Q. Correct? So you can help, can you not, by
16 being quiet and not ratting out your other brothers?

17 A. That's what's expected, yes.

18 Q. Okay. That's one way to give squina?

19 A. Yes, sir.

20 Q. So let me ask you about another thing. If
21 somebody has decided in the SNM to do a hit, and
22 another brother, a soldier like you or like you
23 characterized Mr. Perez, says no, I don't agree, I'm
24 not going to help, that could put them in trouble,
25 can't it?

1 A. Yes. Because they're part of the SNM
2 organization.

3 Q. And if they say no, and they get in the
4 way or they try to stop it or they interfere, they
5 could get hit?

6 A. No, because that's not the agreement we
7 make when we come into the organization.

8 Q. So you're saying if they interfere with a
9 hit, they can't get hit themselves?

10 A. Yes, they can, because --

11 Q. They can get hit. Okay. That's the
12 answer to my question.

13 Or, for instance, if Mr. Perez didn't want
14 to give squina and decided, I'm going to tell STIU
15 or I'm going to tell the CO in the pod that they
16 just took this piece, that he could be in trouble;
17 right?

18 A. Yes.

19 Q. Okay. So let's look at the rest of that
20 paragraph, if we can. I believe it goes over to the
21 next page.

22 And so Mr. Perez had just said, "We just
23 need that, you know what I'm saying? Do you
24 understand what I'm saying?" And you clarify, "They
25 just need that piece from the walker; right?"

1 A. Yes.

2 Q. And his answer was, "After that, I didn't
3 know nothing, brother."

4 A. Yes.

5 Q. So he's saying I don't know nothing so I'm
6 not going to say nothing?

7 A. He's saying, in other words, I'm not going
8 to rat.

9 Q. Okay. And he says a little bit further
10 down, right here, "I -- and I felt -- okay. If I
11 can't -- if I can't put in the work for the family I
12 got to be willing to be able to do my part no matter
13 how little or how big. Do you feel me?"

14 A. Yes, sir.

15 Q. Okay. Big could be, "Let me unscrew this
16 piece from my walker and make shanks out of it for
17 you," right?

18 A. No.

19 Q. That wouldn't be big?

20 A. No.

21 Q. Well, what about if he said, "Let me
22 unscrew these pieces from my walker and make shanks
23 and kill Javier Molina for you." That would be
24 pretty big, wouldn't it?

25 A. If he did the hit himself, that's big.

1 Q. Okay. And little could be -- I'm just
2 asking you what it could be, could be "I'm going to
3 keep my mouth shut," right?

4 A. Yes.

5 Q. Let's go down just a little bit on that
6 page. This is just a little further down.

7 MR. VILLA: And actually, can we just
8 capture the question there, just above it?

9 Q. So Mr. Cordova, you asked the question,
10 "Hey, but serio, from me to you, carnal, straight
11 up, if it wasn't a justified move, would you have
12 given them pieces to move on fucking Javier?"
13 Right?

14 A. Yes.

15 Q. Because you thought he had actually given
16 them the pieces himself; right?

17 A. Yes, he gave them the piece.

18 Q. And you have no idea whether Mr. Perez
19 actually saw any paperwork on Javier Molina?

20 A. I didn't know.

21 Q. Because you weren't there?

22 A. No.

23 Q. And Mr. Perez says, "No, no. Cause I --
24 to me, that's not -- that wouldn't have been a
25 family move. That would have been a personal issue.

1 Why am I going to jeopardize myself? And I did
2 because they took my walker and I already had
3 nothing for over a year. You know what I mean?
4 Because they kept saying, well, you abused your
5 walker. That's why you lost it. I didn't abuse
6 fuck. You feel me?" I read that right?

7 A. Yes, what he's --

8 Q. I'm not asking you a question yet. The
9 question was, "I read that right?" And you said
10 "Yes." Right?

11 A. You read it right.

12 Q. Okay. So here's my question to you: Rudy
13 Perez is in his cell and he's sick. And do you know
14 if he was able, physically, to fight off somebody
15 that wanted to come take that piece from his walker?

16 A. Then he should have never been an SNM
17 member.

18 Q. That's not my question, Mr. Cordova. Do
19 you know if he was physically able to stop somebody
20 from taking that piece from his walker? Yes or no.

21 A. Yes, he was.

22 Q. You think he was?

23 A. Yes. I know he was.

24 Q. Okay. Now, if somebody who is a
25 shot-caller says, "We're going to do this move

1 whether it's justified or not, whether you think
2 it's justified or not," he's a soldier; he doesn't
3 have any say over that, does he? Yes or no.

4 A. Is he only justifiable? Yes, he does have
5 a say over it.

6 Q. Well --

7 A. If it's justifiable, yes, he does have a
8 say over it.

9 Q. Well --

10 A. If it's justifiable, yes, he has a say
11 over it.

12 Q. Here's the question I have. If the
13 decision has already been made that it's going to
14 happen, could Mr. Cordova -- excuse me, could Mr.
15 Perez as a soldier by himself stop it?

16 A. The reason why I asked if it was
17 justified, if he wouldn't give it to him or not --

18 Q. Mr. Cordova, you're not answering my
19 question.

20 A. Because I wanted the jury to know.

21 MR. VILLA: Judge, this is nonresponsive.
22 I'd ask the witness to instruct --

23 A. If it's justifiable --

24 THE COURT: Hold on. Hold on. You'll get
25 a chance. If Mr. Castellano wants to bring out

1 information, he can. But for the present time, just
2 listen to Mr. Villa's question and answer only his
3 questions.

4 THE WITNESS: Sorry about that, Your
5 Honor.

6 BY MR. VILLA:

7 Q. Let me ask you this: Do you understand my
8 question?

9 A. Yes.

10 Q. You're trying to tell the jury that you
11 think he could have done something about it?

12 A. Yes, he could.

13 Q. You answered my question.

14 A. If it wasn't a justifiable hit.

15 Q. You answered the question.

16 All right. Let me talk to you about the
17 next one. The audio was 178, the transcript is 179.

18 Okay. Do you remember testifying about
19 this yesterday, where you said, "Uh, no, no, no,
20 that's Bill and Jean thought. They said that,
21 that's why you said something, huh"? Do you
22 remember that?

23 A. What about it?

24 Q. Do you remember that testimony yesterday?

25 A. Yes, sir.

1 Q. And I think you testified that when you
2 said, "That's Bill and Jean thought," you were just
3 kind of messing around?

4 A. That's what I took it as. He was messing
5 around.

6 Q. Okay. But this is you talking; right?

7 A. I might have been messing around. It's
8 kind of like he said/she said stuff, instead using a
9 guy's name and a girl's name, so Bill and Jean.
10 It's like he said/she said.

11 Q. He said/she said, "Bill and Jean, they
12 said that's why you said something, huh," right?

13 A. Yes.

14 Q. And you're referring to people saying that
15 Rudy said something?

16 A. What I'm indicating there is that it's a
17 he said/she said thing. So it's not justifiable.
18 In other words, it will hold no weight within the
19 family and politicking.

20 Q. The question I have for you is: You're
21 referring to the rumors that Rudy said something.

22 A. Yes.

23 Q. About Molina?

24 A. Yes. It's a he said/she said thing. And
25 there is no way in politics, so you don't have to

1 worry about it.

2 Q. Let's talk a little bit about that. You
3 testified on direct that in 2015, the politics were
4 all messed up in the SNM.

5 A. Yes, they were.

6 Q. And there was some people that got on the
7 wrong side of the politics?

8 A. Yes, sir.

9 Q. So your idea of what the politics were
10 wasn't the same as what some other people's idea
11 was; right?

12 A. No, you're mis- -- you're misinterpreting
13 it.

14 Q. Well, there is a disagreement over some of
15 the politics; right?

16 A. Disagreements where politics are being --
17 yes, there was.

18 Q. And we've heard some other testimony about
19 this in the trial but let me ask you this: There
20 were some people that talked about how they were
21 upset that people were moving on other brothers
22 without paperwork.

23 A. Yes.

24 Q. And that was something in the politics
25 that people weren't happy about; right?

1 A. Yes. That would happen in the past.

2 Q. You answered my question, Mr. Cordova.

3 And just a little bit further down,
4 Mr. Perez answers your question here when you're
5 talking about the he said/she said. He said,
6 "Yeah."

7 And you said, "Cause the shanks came from
8 your walker."

9 And Mr. Perez said, "Yeah."

10 And you said, "That's why -- that's --
11 that's why the homies were thinking maybe you said
12 something," right?

13 A. Yes.

14 Q. That's what you were getting at?

15 A. Yes.

16 Q. And I'm going to jump down just a little
17 bit here, where Mr. Perez is saying -- he's
18 referring to Trigger, right? And he said, "That's
19 another SNM member"?

20 A. Yes, sir.

21 Q. He's saying that he told somebody, "I
22 don't think Ra Ra is strong enough to keep his mouth
23 shut about this." He's talking about himself;
24 right? That Mr. Perez wasn't strong enough to keep
25 his mouth shut?

1 A. Yes, sir.

2 Q. You testified about that on direct?

3 A. Yes, sir.

4 Q. That he wasn't strong enough, maybe
5 because of his health condition?

6 A. Yes, that was the talk.

7 Q. And you talked about how some people
8 break; right?

9 A. Yes, sir.

10 Q. And maybe they haven't talked, but if
11 they're weak or they're not strong enough or there
12 is a fear that they might break, then they will go
13 talk?

14 A. Yes, sir.

15 Q. And if somebody has that worry, there is
16 one way to make sure that person doesn't talk;
17 right?

18 A. Yes, sir.

19 Q. Hit them?

20 A. Yes, sir.

21 Q. Move on them?

22 A. Yes, sir.

23 Q. Let's go down just a little bit further.
24 We've still got it in the view here.

25 Right here, Mr. Perez tells you, "When

1 everything went down and the discovery actually got
2 there, Baby G shot me with -- we got -- he said,
3 "Rudy, don't worry. It's exactly like you said.
4 That's the honest to God's fuckin truth. I put that
5 on my UI. I never said nothing, Shadow, and I never
6 will, dog. Feel me?"

7 A. Yeah.

8 Q. So he's reiterating to you that he never
9 said anything?

10 A. Yes. What he's reiterating to me --

11 Q. You answered my question. Okay? It was a
12 yes or no question.

13 And he's referring back to discovery. You
14 told the jury yesterday discovery is like the
15 paperwork in the case; right?

16 A. Yes.

17 Q. And the paperwork he's actually talking
18 about, the discovery is from the state case, the
19 original state homicide charges against the -- Jerry
20 Montoya and Jerry Armenta?

21 A. Yes, sir.

22 Q. Okay. But at this point in time that
23 state case had been dismissed; right?

24 A. I don't know.

25 Q. That's okay if you don't know. But at

1 this point in time, the feds had done their first
2 RICO indictment; right?

3 A. Yes, sir.

4 Q. And they had indicted some of the people
5 accused in the Javier Molina murder; right?

6 A. At what -- at what point?

7 Q. At this point in time, in February when
8 you're talking to Mr. Perez.

9 A. At that time when I'm talking to him, yes.

10 Q. Okay. Because you said that they indicted
11 some people but not others, and that was the reason
12 you were going after Mr. Perez and Mr. Herrera;
13 right?

14 A. Yes, sir.

15 Q. Okay. And all of that discovery, you
16 didn't necessarily know what was in all that new
17 discovery?

18 A. No, sir.

19 Q. Okay. So the discovery that's referred to
20 here is the discovery from the state?

21 A. Yes, sir.

22 Q. And in that case, as far as you knew,
23 there was just a couple people charged in the
24 murder?

25 A. Yes, sir.

1 Q. Then the fed case happened, and there were
2 more people charged in the murder?

3 A. Yes, sir.

4 Q. So if Mr. Perez had said something to
5 somebody else, and it ended up in, like I say, STIU,
6 and it ended up in paperwork, it might end up in the
7 new discovery?

8 A. I don't know if he did. Did he?

9 Q. I'm just asking you, it's possible that
10 that could happen?

11 A. I don't know why you keep on insinuating
12 like he did say something as to that, so I was
13 just --

14 Q. Well, you don't know, do you?

15 A. I don't.

16 Q. Okay. But if he had, it might end up in
17 paperwork that could fall in the wrong hands?

18 A. All right.

19 Q. Could it?

20 A. Could it end up in the wrong hands, what
21 do you mean?

22 Q. Meaning there is something, a statement
23 comes out within a week or two after the Javier
24 Molina murder, Mr. Perez talks to STIU and says
25 something. If that came out on paper, Mr. Perez

1 could be in trouble?

2 A. Of course.

3 Q. Okay. Let's go over to page 20539. So,
4 Mr. Cordova, this is a little later on in the same
5 conversation. Mr. Perez says, "Uh, and like you say
6 Shadow, that's -- that's not just our friendship but
7 as my carnal, my friend, everything. I put that on
8 my -- mi jita, the love of my life, man. I've never
9 disrespected the onda, UI, against our rules. You
10 feel me?"

11 A. Yes, sir.

12 Q. The onda refers to the SNM; right?

13 A. Yes, sir.

14 Q. And one of the rules of the SNM is not to
15 talk?

16 A. Yes, sir.

17 Q. Not to say anything?

18 A. Yes, sir.

19 Q. So he's telling you here that he hasn't
20 disrespected the onda or the rules?

21 A. Yes, sir.

22 Q. All right. I'm going to go to the next.
23 So the audio was 180, the transcript is 181.

24 Mr. Cordova, this is the next recording,
25 and I'm on the first page. Mr. Perez here is

1 telling you, "I tell you, all that came out
2 afterwards, because, like I say, at first, I
3 thought, oh, they're just homies. You know what I
4 mean? You just showed some homies up cool, because
5 other vatos UI them fuckers is true, eh?" So he's
6 saying all that came out afterwards. He's talking
7 about some of the facts regarding Javier Molina;
8 right?

9 A. Yes, sir.

10 Q. So a lot of information that came out
11 afterwards is something that you guys were talking
12 about?

13 A. Yes, sir.

14 Q. So let's jump down here. It says, "Well,
15 because I hear him say he had him on the payment
16 plan, no?" Do you see that?

17 A. Yes, sir.

18 Q. I think you testified about that
19 yesterday, you're talking about Javier Molina being
20 on the payment plan?

21 A. No. He's being extorted.

22 Q. Javier Molina?

23 A. Yes, sir.

24 Q. He's being extorted by others because
25 there's this paperwork out there?

1 A. Yes, sir.

2 Q. And this is going back to why he wasn't
3 killed earlier?

4 A. Yes, sir.

5 Q. And so this information is information
6 that came out after the fact; right?

7 A. Yes, sir.

8 Q. You don't know that Mr. Perez knew
9 anything about it until 2016?

10 A. Yes, sir.

11 Q. So now he says to you, "That didn't have
12 to go down like that. It was so sloppy. Honestly,
13 though, after everything was said and done,
14 something, I'm not going to say who, somebody said
15 them vatos was sitting on a two foundation. Do you
16 feel me? Do you feel me?"

17 A. Yes, sir.

18 Q. What is a two foundation?

19 A. Probably a two-man crew, the guys that
20 knew about it, should have had it done and they
21 didn't. They were sitting on a two-man foundation
22 extorting the individual for narcotics.

23 Q. Okay. And you have no idea whether
24 Mr. Perez knew that himself or only found out about
25 it after the fact?

1 A. Correct.

2 Q. Let's go over to the next page. Okay. On
3 this page, Mr. Perez is telling you, "I tell you,
4 bro, just even talking about it now gets me mad,
5 bro, because some of that shit is not right, eh, the
6 way it was done. But I ain't nobody, homie, I'm
7 just -- I'm just a motherfucker too." Do you see
8 that?

9 A. Yes, sir.

10 Q. You told the jury yesterday he's talking
11 about the way the Javier Molina murder went down?

12 A. Yes, sir.

13 Q. That it gets him mad?

14 A. No. What gets him mad is that we were
15 coming out to the lines and that set us back.

16 Q. Okay. Well, he says, "The way it was
17 done." He's talking about the way Javier Molina was
18 done?

19 A. Yes. After everything was done, what
20 happened afterwards.

21 Q. But my question to you is: He's talking
22 about the way the Javier Molina murder was done?

23 A. Yes.

24 Q. Okay. And then he says, "But I ain't
25 nobody, homie," right?

1 A. Yes.

2 Q. Meaning he's just a little guy, he's not a
3 shot-caller?

4 A. Yes, sir.

5 Q. "I'm just a motherfucker too," that's what
6 he's saying?

7 A. Yes, sir.

8 Q. And you said here, "Oh, the same person
9 that told you, hmm, you're on a suicide mission,
10 probably the same person that told you was, you
11 know, you know, carnal, you know that was over."
12 The suicide mission was what you talked about
13 yesterday, the sending those guys in with the video,
14 on video camera and that sort of thing; right?

15 A. Yes, sir.

16 Q. Doing the stabbing instead of choking him
17 out?

18 A. Yes, sir.

19 Q. And Mr. Perez was not happy about that,
20 was he?

21 A. Yes, sir.

22 Q. He didn't agree with that?

23 A. Yes, sir.

24 Q. And he's making clear to you that he's not
25 the one that made the decision?

1 A. Yes, sir.

2 Q. Let's go to the last page. So Mr.
3 Cordova, this is the same recording. Mr. Perez
4 says, "I'm solid as a motherfucker, dog." Do you
5 see that?

6 A. Yes, sir.

7 Q. And solid has different meanings, doesn't
8 it? Solid could be I'm a good guy, I'm a good
9 carnal, I'm a good brother, I'm a tough guy; right?
10 It could mean that.

11 A. That's what it means.

12 Q. It could also mean I'm solid, I'm not
13 going to tell?

14 A. All that is within a solid dude.

15 Q. You don't tell?

16 A. That one word means all of those.

17 Q. Okay. And you said, "Well, see, this is
18 what I heard, ese, was that the mission was supposed
19 to be to send a message to the administration
20 because they were starting that program." So you're
21 saying you heard the mission, the mission is the
22 Javier Molina murder; right?

23 A. Yes, sir.

24 Q. And that was a message to the
25 administration about starting the dropout program;

1 right?

2 A. Yes, sir.

3 Q. And Mr. Perez says, "I didn't hear that
4 one"?

5 A. Yes, sir.

6 Q. And he's telling you he didn't know about
7 that; right?

8 A. About that?

9 Q. About what you just said.

10 A. About the program?

11 Q. Yes.

12 A. Yes.

13 Q. Or that the message was supposed to be a
14 message to the administration. He's saying I didn't
15 hear that.

16 A. He's just saying that he didn't know it
17 was going to be a message to the administration.

18 Q. He says down here, "I didn't hear that
19 message. I didn't hear or see it, but they left
20 several other issues on the table like that, like me
21 and you have talked about."

22 A. Yes.

23 Q. And as far as you know, Mr. Perez was
24 telling you the truth, that he didn't know that?

25 MR. CASTELLANO: Objection. Calls for

1 speculation.

2 A. I can't -- I can't verify that.

3 THE COURT: I guess he's saying he can't
4 verify it.

5 MR. VILLA: And that was my question,
6 whether he knows or not.

7 BY MR. VILLA:

8 Q. You don't know?

9 A. I don't know.

10 Q. All right. Let's go to the next, the
11 audio recording that was played was 184 and the
12 transcript is 185.

13 Okay. Mr. Cordova, here you're asking
14 "That vato Jesse that was just here, that fool Jesse
15 Sosa," right?

16 A. Yes, sir.

17 Q. Jesse Sosa was actually on the other side
18 of you when you were recording Mr. Perez; right?

19 A. Yes, sir.

20 Q. You're talking about "Hey, that guy that
21 was just here"?

22 A. Yes, sir. He left.

23 Q. He had already left?

24 A. Yes.

25 Q. All right. And Mr. Perez says, "Yeah."

1 And you said, "That's the paperwork they had that
2 they used to hit that fool, huh," right?

3 A. Yes, sir.

4 Q. "Hit that fool," you're talking about
5 Javier Molina?

6 A. Yes, sir.

7 Q. Rudy says, "I don't know," right?

8 A. Yes, sir.

9 Q. He says he doesn't know?

10 A. Yes, sir.

11 Q. He says, "I don't know, I've never seen
12 it. I hear about it." And you said, "You only hear
13 about it?" And he said "Yeah," right?

14 A. Yes, sir.

15 Q. He's telling you he didn't know about that
16 paperwork.

17 A. Yes, sir.

18 Q. And you don't know if that's true or not,
19 do you?

20 A. I don't.

21 Q. As far as you know, it is the truth?

22 A. I don't know that either.

23 Q. Okay. Let's go to the next page.

24 Mr. Perez, a little later in the
25 conversation says -- well, you said to him, "So that

1 was it. It was the paperwork on Jesse Sosa." And
2 he's saying, "that -- that -- that, that was part of
3 it. And then Archie's boy was the other half."

4 Right?

5 A. Yes.

6 Q. So he, like you and everybody else, had
7 heard later about the paperwork on Jesse Sosa?

8 A. Yes, sir.

9 Q. Okay. And then you're asking him, "Well,
10 what did -- what did Javier have to do with that
11 mess?" You're talking about Archie's boy; right?

12 A. Yes, sir.

13 Q. So let's flip to the next page. And
14 just -- there you go. Mr. Perez says, in response
15 to that, "I don't know, brother, I don't know. I
16 mean, that's why I'm telling you. I'm like in a
17 way -- I don't even want to know, dog, because you
18 know what I mean? So I just -- it's in my head,
19 though. I'm always like, what the fuck with that?
20 I don't ask nobody. I just -- I just keep -- keep
21 my mouth, and I just thought about it, you know what
22 I mean? And like I say, dog, that day I told them
23 vatos not, like, think about that, and they
24 basically told me, you know what? Ay, this is going
25 to happen regardless. Just stay out of it." Did I

1 read that right?

2 A. Yes, sir.

3 Q. He's talking about the day of Javier
4 Molina, isn't he?

5 A. Yes, sir.

6 Q. He's telling you that he was told, You
7 know what? This is going to happen regardless.
8 Just stay out of it.

9 A. Yes, sir.

10 Q. Let's go just a little further in the same
11 conversation.

12 Okay. Mr. Cordova, again here Mr. Perez
13 is talking about "47 days to the house." And we
14 heard about that last -- yesterday, about how some
15 of the people who were involved in the Javier Molina
16 murder just were short timed to get out of prison;
17 right?

18 A. Yes, sir.

19 Q. "47 days to the house" means 47 days till
20 they get released from prison; right?

21 A. Yes, sir.

22 Q. And so Mr. Perez is talking to you about
23 this; right?

24 A. Yes, sir.

25 Q. And he says right here, "Like I say, they

1 told me to shut up and just stay out of it and they
2 did what they wanted to do. Then later on, suicide
3 mission was there." Do you see that?

4 A. Yes, sir.

5 Q. And you said, "So why did you give them
6 the pieces, carnal?"

7 He says, "Huh?"

8 You asked him, "Why did you give him the
9 pieces if you didn't?"

10 He says "What?"

11 You said, "You should have just told them
12 fuck you."

13 And Rudy says, "I just -- I just get out
14 of it. Let them do their own thing. I was nobody.
15 I was just -- fuck it."

16 And you say, "Yeah, but they fucking --
17 they got them from your fucking -- from your walker,
18 carnal. Could have gotten you caught up, you know
19 what I'm saying?"

20 Did I read that right?

21 A. Yes, sir.

22 Q. When you say "caught up," you mean get him
23 in trouble; right?

24 A. Charged.

25 Q. Charged. And Rudy says, "Oh, it did. It

1 did. Look where I'm at." Right?

2 A. Yes, sir.

3 Q. And then you said, "Yeah." And then,
4 "Yeah. They used those as the fierros, you know
5 what I'm saying? That could -- shit could have
6 gotten you -- yeah, I know this is where you're at,
7 but still. You get what I'm saying? I don't
8 understand that."

9 Then we'll go to the next page. Let's do
10 a full answer.

11 And you said, "Carnal, it's all good
12 though." Is it -- "it is what it is, ese, you know
13 what I mean?"

14 And Rudy says, "That's -- that's -- that's
15 why I say yeah, I just go there. I just got out of
16 the hold and I was real sick." Do you remember that
17 part?

18 A. Yes, sir.

19 Q. The hold, I think when we heard the audio,
20 was the hole; right?

21 A. Yes, sir.

22 Q. The hole is often referred to as being in
23 solitary confinement or being in some sort of
24 administrative segregation?

25 A. It's the same thing as the North. You go

1 to your cell.

2 Q. You're there the whole time. Or you only
3 get out like five days a week and stuff like that?

4 A. Yes, sir.

5 Q. And he says, "I was real sick," right?

6 A. Yes, sir.

7 Q. And he says, "So for me to actually
8 participate in doing some dirt, physically I wasn't
9 able to. But we all have to do our part, you know
10 what I mean? One way or another, homes, everybody
11 has to put their part. You feel me?"

12 And he says, "What do you mean?"

13 And he says, "Everybody has to do their
14 part, homes." Do you see that?

15 A. Yes, sir.

16 Q. And one job he has to do is to keep quiet;
17 right?

18 A. Keep quiet.

19 Q. Yes or no, is that one of the jobs?

20 A. That's one of the jobs, yes, sir.

21 Q. That's a part that he has to play, he has
22 to be quiet; right?

23 A. Yes, sir.

24 Q. Let's go now in the same discussion.

25 It's in the next one. Let's look at the

1 next one. The audio is 186 and the transcript is
2 187. So here in this next conversation you have
3 Mr. Perez says to you, "But you know, hey, I'm
4 nobody. I keep right in the back and I keep my
5 mouth shut the way I'm supposed to. And if I'm --
6 if needed for something, they'll bring it to my
7 attention and I'll do my part. But if it don't
8 concern me or whatever they got going on, it's their
9 business. Do you know what I mean?"

10 A. Yes, sir.

11 Q. He's talking about the Molina case; right?

12 A. Yes, sir.

13 Q. That I'll keep my mouth shut the way I'm
14 supposed to; right?

15 A. Yes, sir.

16 Q. "If it don't concern me or whatever they
17 got going on, it's their business, do you know what
18 I mean?" Right?

19 A. Yes, sir.

20 Q. The last one I want to talk to you about,
21 Mr. Cordova, is the audio is 188 and the exhibit is
22 189 for the transcript. So in this conversation,
23 Mr. Cordova, you talk to Mr. Perez and say, "Yeah,
24 well, they say you need to be handled, so they got
25 it handled. So I don't know. Who knows the real

1 truth behind some of that? But you know, you know
2 what I'm saying? There's the truth, we know the
3 truth. Me and you know the truth. You know what I
4 mean?" Again, you're still talking about Molina;
5 correct?

6 A. Yes, sir.

7 Q. And Mr. Perez says, "Um-hum."

8 You said, "But very few really know what
9 happened there. You know what I'm saying?"

10 A. Yes, sir.

11 Q. You're talking about very few people know
12 where the shanks came from?

13 A. No, we're talking about very few people
14 knew what happened there about the murder.

15 Q. Part of that is where the shanks came
16 from; right?

17 A. Yes, sir.

18 Q. And Mr. Perez says, "And none of that was
19 right, brother. Yes, it had to be done, but it sure
20 as fuck did not have to be done like that." Right?

21 A. About the murder?

22 Q. Yeah.

23 A. Yes, sir.

24 Q. So you heard him earlier say he'd never
25 seen the Javier Molina paperwork; right?

1 A. Yes, sir.

2 Q. And then later he's talking about the
3 paperwork because by 2016, everybody is talking
4 about it; right?

5 A. Yes, sir.

6 Q. And so he's saying well, if there's
7 paperwork, then it had to be done; right?

8 A. Yes, sir.

9 Q. But here he says, "But it sure as fuck did
10 not have to be done like that."

11 A. Yes, sir.

12 Q. So he's not agreeing with the way it was
13 done.

14 A. He's not agreeing with it. It should have
15 been cleaner, yes.

16 Q. He's not in agreement with how it was
17 handled?

18 A. Yes, it should have been cleaner is what
19 he's trying to state.

20 Q. Well, that's your interpretation. But you
21 agree with me that he didn't agree the way the
22 Javier Molina murder was handled?

23 A. No, that's what he said. It should have
24 been done cleaner.

25 Q. He doesn't get to make that decision;

1 right?

2 A. No, he don't.

3 Q. Now, Mr. Cordova --

4 MR. VILLA: May I have just a second?

5 Q. I think you testified that you were closed
6 by the FBI as an informant in January of this year?

7 A. No, last year.

8 Q. I apologize. It was January of last year?

9 A. Yes, sir.

10 Q. So it's January of 2017?

11 A. Yes, sir.

12 Q. When you're closed that means that you no
13 longer work for the FBI; right?

14 A. Correct.

15 Q. And you were closed because you had
16 violated rules?

17 A. Yes, sir.

18 Q. And one of the rules that you violated was
19 having sex in the contact room?

20 A. Yes, sir.

21 Q. So you understood when the FBI opened you
22 as an informant that you were supposed to follow all
23 the rules; right?

24 A. Yes, sir.

25 Q. And if you're out on the street that means

1 don't break the law?

2 A. Yes, sir.

3 Q. If you're in prison, it means follow the
4 rules of the prison?

5 A. Yes, sir.

6 Q. But you didn't do that?

7 A. No, sir.

8 Q. So let me show you --

9 MR. VILLA: I'm going to move to admit,
10 Your Honor, Exhibit ADZ. It's a video from the
11 contact room. I apologize, AD2. I believe it's
12 without objection.

13 MR. CASTELLANO: It is the objection as
14 previously noted, Your Honor.

15 THE COURT: All right. So I'll admit --
16 anybody else have any objection? All right. Not
17 hearing any, Defendants' Exhibit -- I'm still not
18 quite certain I know what it is.

19 MR. VILLA: I apologize. It's AD2. The
20 Number 2.

21 THE COURT: A an in apple, D as in dog, 2.

22 MR. VILLA: Yes, Your Honor.

23 THE COURT: Defendants' Exhibit AD2 will
24 be admitted into evidence.

25

1 (Defendants' Exhibit AD2 admitted.)

2 BY MR. VILLA:

3 Q. Now, before I hit the start, Mr. Cordova,
4 you know that there is video from the contact room
5 where you were having sex with your wife?

6 A. I believe so.

7 Q. And you did that with your wife in front
8 of your children?

9 A. Yes, sir.

10 Q. How old were your children?

11 A. 11 and 12.

12 Q. 11 and 12 years old?

13 A. Yes, sir.

14 Q. So you didn't say, "Leave the kids at home
15 and come see me." The kids came with you?

16 A. Yes, sir.

17 Q. Let's go ahead and play it.

18 (Tape played.)

19 Q. Now, let's pause it there. Mr. Cordova, I
20 paused it, October 30, 2016, 02:00:20 p.m. Right?

21 A. Yes, sir.

22 Q. Is that you and your wife?

23 A. Yes, sir.

24 Q. And then it's blurred out, but those two
25 there are your children?

1 A. Yes, sir.

2 Q. You can continue.

3 (Tape played.)

4 Q. Mr. Cordova, in the last clip that we saw,
5 that was from January 1st of 2017?

6 A. Yes, sir.

7 Q. And in that particular clip you were
8 engaged in sexual activity with your wife?

9 A. Yes, sir.

10 Q. But the children weren't there that time?

11 A. No, sir.

12 Q. They were there the other time?

13 A. They were there, they were escorted to the
14 restroom.

15 Q. I understand. Now, after that happened,
16 it was discovered that you did that; right?

17 A. Yes, sir.

18 Q. And Agent Acee came to see you?

19 A. He came to see me.

20 Q. After he came to see you, he closed you as
21 a cooperator with the FBI?

22 A. Yes, sir.

23 Q. Right? Because you were breaking the
24 rules?

25 A. Yes, sir.

1 Q. So since that time, you have not done any
2 other work for the FBI?

3 A. I believe no.

4 Q. Well, you believe or you don't?

5 A. No.

6 Q. You did or didn't do anything else for the
7 FBI?

8 A. No.

9 Q. Right? Because you couldn't be trusted
10 anymore?

11 A. You could say that, yes.

12 Q. And are you on speaking terms with your
13 wife and children?

14 A. Yes.

15 Q. You still are?

16 A. Yes.

17 Q. We talked about some of the money that the
18 FBI paid you.

19 THE COURT: I'll tell you what. Let me
20 see what the jury wants to do. And if y'all have
21 plans, anybody can pipe in here. Do you want to
22 take a break and then do a later lunch? Or would
23 you prefer to go ahead and just break now and take
24 our lunch now?

25 How many of you prefer to -- I think I

1 messed everybody up last Friday by just taking an
2 earlier lunch. How many of you would prefer to take
3 a 15-minute break and then take our lunch in about
4 an hour and a half after that? Looks like about
5 everybody. Does that mess up any plans for counsel,
6 parties, anybody?

7 All right. So why don't we take about a
8 15-minute break? We'll come back in and take a late
9 lunch. All rise.

10 (The jury left the courtroom.)

11 THE COURT: All right. We'll be in recess
12 for about 15 minutes.

13 (The Court stood in recess.)

14 THE COURT: All right. Let's go on the
15 record. Is there anything we need to discuss before
16 we bring the jury in, Mr. Beck?

17 MS. JACKS: Your Honor, just in terms of
18 witness scheduling.

19 THE COURT: Hold on. Mr. Beck had
20 something.

21 MR. BECK: No, Your Honor.

22 THE COURT: How about you, Ms. Jacks?

23 MS. JACKS: Just in terms of witness
24 scheduling, are we going to take the lunch break at
25 around 1:30?

1 THE COURT: Yes.

2 MS. JACKS: So we'd resume at 2:30 after
3 lunch?

4 THE COURT: That's correct.

5 MS. JACKS: Got it.

6 THE COURT: Anybody else from the defense
7 side have anything? That's assuming we can get
8 everybody in here. I think Mr. -- the witness, I
9 think, wanted to talk to his attorney who is not
10 here today. So there may be a delay there. I don't
11 know.

12 THE WITNESS: No, I was stating earlier, I
13 guess I misunderstood his question when he asked me
14 about drug use. And the Government asked me, and I
15 want to be honest with them, that's why told them
16 yes, I had been using drugs. Not because I got
17 busted using drugs, but because I wanted to be
18 honest. And I thought I was honest.

19 The last time I must have misunderstood
20 the question. When I was in the streets, I wasn't
21 using drugs. I was on methadone. Since I've been
22 back in the Department of Corrections, here and
23 there I've done drugs. It's been kind of
24 conflicting emotions within myself for doing this,
25 you know.

1 So if I -- you know, if I lied, I want to
2 apologize. I didn't really understand the question
3 last time, so sorry about that.

4 THE COURT: All right. All rise.

5 (The jury entered the courtroom.)

6 THE COURT: All right. Mr. Cordova, I'll
7 remind you that you're still under oath.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Mr. Villa, if you wish to
10 continue your cross-examination of Mr. Cordova, you
11 may do so at this time.

12 MR. VILLA: Thank you, Your Honor.

13 THE COURT: Mr. Villa.

14 BY MR. VILLA:

15 Q. Mr. Cordova, when we left off, we were
16 talking about benefits. And so I want to talk a
17 little bit about that. The video that we watched,
18 that took place at the Penitentiary of New Mexico?

19 A. Yes, sir.

20 Q. And at the Penitentiary of New Mexico, you
21 were in the North unit?

22 A. Yes, sir.

23 Q. And normally in the North unit you don't
24 get contact visits; right?

25 A. Normally, no.

1 Q. But you got contact visits?

2 A. Yes, sir.

3 Q. And you were in a pod where there were
4 other individuals who were working for the
5 Government; right?

6 A. Yes, sir.

7 Q. And those individuals were given contact
8 visits?

9 A. I can't confirm that or deny it.

10 Q. Okay. But you were all in the same pod
11 together, correct?

12 A. Yes, sir.

13 Q. And I want to show you what's already been
14 admitted as Defendants' EJ. This is a letter,
15 Mr. Cordova, that was dated August 26, 2016, to the
16 warden German Franco. Was he the warden at the time
17 you were there?

18 A. Yes, sir.

19 Q. And let me show you the second page of the
20 letter. Have you ever seen this letter before?

21 A. Can you go back? I don't even know what
22 the letter said.

23 Q. Let me show you. Before we go back, do
24 you see here at the bottom it has your name?

25 A. Yes, sir.

1 Q. And an NMCD number?

2 A. Yes, sir.

3 Q. That's your NMCD number, correct?

4 A. Yes, sir.

5 Q. And it's signed by you and these other
6 individuals: Jerry Armenta, Benjamin Clark, Robert
7 Martinez, and Frederico Munoz?

8 A. Yes, sir.

9 Q. Those were all individuals who were in the
10 pod with you at PNM North, correct?

11 A. Yes, sir.

12 Q. And all working for the Government?

13 A. Yes, sir.

14 Q. Okay. So we'll go back to the front of
15 the letter so you can see it.

16 A. Yes, sir.

17 Q. So let's --

18 A. Yes, sir. I remember that.

19 Q. You've seen this letter?

20 A. I didn't see the letter, but --

21 Q. Do you remember it was written?

22 A. I remember the evening that took place.

23 Q. That was the party you told Mr. Castellano
24 about?

25 A. Yes, sir.

1 Q. Where your families were allowed to come?

2 A. Yes, sir.

3 Q. And that's not something that's normally
4 allowed at PNM North, is it?

5 A. I don't think so. I don't know.

6 Q. Let me blow up this paragraph for you
7 right there. So the letter says right here, "Each
8 of us made the decision, according to his
9 conscience, to reject the beliefs and values that
10 motivated our shameful involvement in the SNM. Now
11 we individually desire to become full and
12 responsible participants in our society." Do you
13 see that?

14 A. Yes. I didn't write that, though.

15 Q. But your name is on it; right?

16 A. Yes.

17 Q. And I presume on August 26, 2016 you
18 desired to become a full and responsible participant
19 in society?

20 A. Yes, sir.

21 Q. And August 26, 2016 is before the date of
22 those videos we saw you with your wife and children?

23 A. Yes, sir.

24 Q. And it's before the time in December when
25 you used the drugs that you testified about?

1 A. Yes, sir.

2 Q. So after this letter went out and after
3 that party, you did those things?

4 A. Yes, sir.

5 Q. By the way, the video that we saw was of
6 your wife Crystal?

7 A. Yes, sir.

8 Q. The same wife who you attacked in 2010,
9 correct?

10 A. Yes, sir.

11 Q. And I think I forgot to ask you about this
12 when I was talking about that incident. You
13 testified already that you broke her jaw. How many
14 times did you hit her in the face?

15 A. I can't recall.

16 Q. More than once; right? Right?

17 A. I can't recall.

18 Q. You knocked her upper teeth in, didn't
19 you?

20 A. Yes, sir.

21 Q. And broke her jaw?

22 A. Yes, sir.

23 Q. So you probably hit her more than once,
24 didn't you?

25 A. Yes, sir.

1 Q. And that's one of the convictions for
2 which you were serving time in the prison system in
3 New Mexico?

4 A. Yes, sir.

5 Q. And they allowed your wife despite that to
6 come see you?

7 A. My wife has always been on my visiting
8 list.

9 Q. Okay. But the prison is allowed to
10 restrict you from getting visitors; right?

11 A. In that case, no, because that's a court
12 issue.

13 Q. I'm not asking about your wife
14 specifically. I'm asking you if you know whether
15 the prison is allowed to restrict you from getting
16 visitors?

17 A. Yes.

18 Q. And one of the people they restricted,
19 like we talked about, is your mom?

20 A. Yes, sir.

21 Q. And I think it was your testimony that one
22 of the reasons you did that is you saw a flaw in the
23 system and you took advantage of it.

24 A. Yes, sir.

25 Q. Same sort of manipulation that you did

1 when you were able to attack that prisoner at MDC;
2 right?

3 A. Yes and no.

4 Q. I mean, it's all manipulation, isn't it?

5 A. Yes, sir.

6 Q. Now, you testified under oath right before
7 the break that you aren't working for the FBI
8 anymore?

9 A. Yes, sir.

10 Q. And you weren't working for them after
11 they closed you in January of 2017?

12 A. Yes, sir.

13 Q. Before that, you were getting money and
14 benefits from the FBI; right?

15 A. Yes, sir.

16 Q. And they were putting it on prison books?

17 A. Yes, sir.

18 Q. They also gave some of that money to your
19 wife Crystal?

20 A. I can't recall.

21 Q. You don't know if Agent Acee give her
22 money for school supplies?

23 A. At this time I can't recall that.

24 Q. We can ask him about that. Let me ask you
25 this. Did you get to decide whether the federal

1 government was going to charge you in this case or
2 not?

3 A. Did I get to decide?

4 Q. Yes, sir.

5 A. No.

6 Q. So if you told your wife that you got to
7 decide, would that be a lie to her?

8 A. Yes, sir.

9 Q. And you're saying you didn't get to make
10 the decision about whether you could be charged in
11 this case, enter a plea and have that time be
12 concurrent to your state time?

13 A. I could have, but I didn't.

14 Q. So you did get that choice?

15 A. No, I didn't have a choice. But it could
16 have happened.

17 Q. I see. It could have happened. But
18 you're saying you didn't get that choice?

19 A. Didn't get that choice.

20 Q. But you told your wife you could make that
21 choice, didn't you?

22 A. Yes, sir.

23 Q. And that was a lie?

24 A. Well, at that time I didn't know whether I
25 was going to be charged or not.

1 Q. Well, did you know at the time you told
2 your wife whether you were being truthful with your
3 wife?

4 A. I probably wasn't being truthful with my
5 wife.

6 Q. Okay. And while you were under oath
7 before we took the break, and you said that you had
8 been terminated by the FBI and no longer using them,
9 you were being truthful?

10 A. Yes.

11 Q. Isn't it true that in April of 2017, after
12 you were closed, you were asked to record another
13 individual?

14 A. Who was the individual?

15 Q. Do you agree that on April 1st and April
16 3rd, 2017 that you conducted recordings of a Gabriel
17 Valdivia?

18 A. For STIU, yes.

19 Q. And you weren't working with FBI Agent
20 Nancy Stemo?

21 A. To my knowledge, no. It was STIU that I
22 had given the information to.

23 Q. Okay. So you deny that FBI Agent Nancy
24 Stemo was involved in that process?

25 A. If she was, I had no knowledge of that.

1 MR. VILLA: May I have just a moment, Your
2 Honor?

3 THE COURT: You may.

4 MR. VILLA: I'll pass the witness.

5 THE COURT: All right. Thank you,
6 Mr. Villa.

7 Ms. Bhalla?

8 MS. BHALLA: Yes, Your Honor.

9 THE COURT: Do you have cross-examination?
10 While you're coming up, let me mention,
11 Richard Jewkes, Mr. Sanchez's lawyer, has left the
12 courtroom to attend some funeral services. His
13 girlfriend's mother passed away and the services are
14 this afternoon in El Paso. So he's going to head
15 down there.

16 But Ms. Jacks will ably represent
17 Mr. Sanchez this afternoon in Mr. Jewkes' absence.

18 All right. Ms. Bhalla, if you have
19 cross-examination, you may proceed.

20 MS. BHALLA: Thank you, Your Honor.

21 THE COURT: Ms. Bhalla.

22 CROSS-EXAMINATION

23 BY MS. BHALLA:

24 Q. Good afternoon, Mr. Cordova.

25 A. Good afternoon, Miss.

1 Q. I believe that Mr. Villa just asked you
2 about the recordings that you made in April of 2017.
3 Do you recall that question?

4 A. Yes, ma'am.

5 Q. And you stated that you didn't know
6 whether or not the FBI was involved with that;
7 right?

8 A. Yes, ma'am.

9 Q. Okay. Isn't it true, Mr. Cordova, that
10 every single time you've sat down with STIU
11 involving the investigation in this case someone
12 from the federal government has been there?

13 A. In this case?

14 Q. Yeah.

15 A. Yes.

16 Q. Okay. You also told Mr. Villa that you
17 don't recall anybody giving money to your wife,
18 Crystal; is that correct?

19 A. Right.

20 Q. So no one ever gave money to your wife?

21 A. To my knowledge, I can't remember.

22 Q. Okay. Would it refresh your memory to
23 listen to a video about that?

24 A. Yes.

25 MS. BHALLA: I'm going to have us play,

1 Your Honor, Defendant's Exhibit Z, as in zebra, 51.

2 MR. CASTELLANO: Your Honor, before we
3 play that, if she's refreshing recollection, the
4 rules require that it be outside the presence of the
5 jury.

6 THE COURT: All right, ladies and
7 gentlemen. We're going to play this, but it will be
8 outside your presence. All rise.

9 (The jury left the courtroom.)

10 THE COURT: Everyone be seated.

11 All right, Ms. Bhalla.

12 MS. BHALLA: Thank you, Your Honor.

13 (Tape played.)

14 BY MS. BHALLA:

15 Q. Pause it, please. Mr. Cordova, is that
16 your voice?

17 A. Yes, ma'am.

18 Q. Can you please proceed?

19 (Tape played.)

20 Q. Can you pause it? Thank you. Is that
21 your wife, Crystal?

22 A. Yes, ma'am.

23 Q. Okay. Thank you.

24 (Tape played.)

25 Q. I think that's enough.

1 Does that refresh your recollection,
2 Mr. Cordova?

3 THE COURT: Well, I think this probably
4 ought to be in the presence of the jury now.

5 MS. BHALLA: Thank you, Your Honor.

6 THE COURT: All rise.

7 (The jury entered the courtroom.)

8 THE COURT: All right. Ms. Bhalla.

9 BY MS. BHALLA:

10 Q. Mr. Cordova, you had an opportunity to
11 listen to a phone call you made to your wife; is
12 that correct?

13 A. Yes, ma'am.

14 Q. And would you agree with me that that
15 phone call was made in September of 2016?

16 A. I can't recall, but yes, it was made.

17 Q. Does that refresh your memory about
18 whether or not anybody gave money to your wife?

19 A. At that time? I had so much stuff going
20 through my mind, to be honest with you, I can't
21 really recall it.

22 Q. I'm not asking whether or you recall the
23 conversation. I'm asking you whether or not you
24 asked the Government to give money to your wife.

25 A. I guess I did. It's right there.

1 Q. Okay. Do you recall testifying in this
2 courtroom in December of 2017?

3 A. Yes, ma'am.

4 Q. And that was two months ago?

5 A. Yes, ma'am.

6 Q. And you took an oath, didn't you?

7 A. Yes, ma'am.

8 Q. And you swore to tell the truth, didn't
9 you?

10 A. Yes, ma'am.

11 Q. Do you recall that we asked you questions
12 about whether or not anyone had given your wife
13 money in this case. Do you recall?

14 A. Yes, ma'am.

15 Q. Okay. And your answer was "No."

16 A. Yes, ma'am.

17 Q. Okay. That wasn't true, was it?

18 A. No, ma'am.

19 Q. Mr. Cordova, did anyone from the federal
20 government ask you to lie in this case?

21 A. No, ma'am.

22 Q. Did you tell anyone that the federal
23 government had asked you to lie in this case?

24 A. No, ma'am.

25 Q. Could we please play Defendant's Exhibit

1 Z, as in zebra, 54.

2 (Tape played.)

3 Q. Is that you, Mr. Cordova?

4 A. Yes, ma'am.

5 Q. Okay. Is that your wife, Crystal?

6 A. Yes, ma'am.

7 Q. The same wife that you beat up in 2010?

8 A. Yes, ma'am.

9 Q. Okay. Please move ahead. We need to play
10 Z55, please.

11 We'll get to that call in a minute,
12 Mr. Cordova.

13 A. All right, Miss.

14 (Tape played.)

15 Q. Is that you, Mr. Cordova?

16 A. Yes, ma'am.

17 Q. Is that your wife, Crystal?

18 A. Yes, ma'am.

19 Q. Okay. Thanks.

20 (Tape played.)

21 A. Yes, that wasn't the FBI. That was
22 administration in prison. And maybe I was going
23 through some things at the time before I was an SNM
24 Gang member.

25 Q. Before you were an SNM Gang member?

1 A. Yes. And I did a lot of bad things.

2 Q. Okay. Mr. Cordova, you'll get the chance
3 to explain those phone calls later.

4 A. All right, Miss. But that wasn't the FBI.

5 Q. Did you make the phone call?

6 A. Yes, ma'am.

7 Q. And then did you later call your wife and
8 say, "I will do anything for the FBI." Did you tell
9 her that? Anything at all.

10 A. Maybe being the truth, yes. I'm here to
11 do my part, give them everything I did and
12 everything they did.

13 Q. It's a yes-or-no question.

14 A. Yes, ma'am.

15 Q. Did you tell your wife that you would do
16 anything for the FBI?

17 A. Yes and no.

18 Q. And did you tell your wife that the
19 administration -- and I understand you have a
20 different interpretation of that -- but that the
21 administration wanted you to lie and to snitch. Did
22 you say that to your wife? Yes or no.

23 A. It's not a different interpretation. It's
24 the administration in prison.

25 Q. Mr. Cordova, you're aware that the FBI has

1 been working in conjunction with the New Mexico
2 Department of Corrections in this case, aren't you?
3 Yes or no.

4 A. They're two different.

5 Q. Yes or no?

6 A. Yes.

7 Q. When you met with Agent Acee, the
8 conversation was about you giving him information on
9 the Molina murder; is that correct?

10 A. Yes, ma'am.

11 Q. Okay. And I want to make sure I get your
12 words correctly here, Mr. Cordova. But basically
13 your understanding was that if you didn't give him
14 information on the Molina murder, he had no reason
15 to work with you. Do you recall saying that?

16 A. Yes, ma'am.

17 Q. Okay. And that was your understanding
18 when you agreed to work with him; is that correct?

19 A. Yes, ma'am.

20 Q. The first debrief, at least with Agent
21 Acee, that you attended in this case was on January
22 4th of 2016. Do you recall that?

23 A. Yes, ma'am.

24 Q. Okay. And I believe you testified on
25 direct that that meeting was about four hours. Do

1 you recall that?

2 A. Yes, ma'am.

3 Q. And you testified that you knew they were
4 going to call me out on the RICO charges. Do you
5 recall saying that?

6 A. Yes, ma'am.

7 Q. And the only option you had was to
8 cooperate with the federal government. Do you
9 recall that statement on direct?

10 A. That's not the only option but that was
11 one of them, yes.

12 Q. Well, they asked you specifically why you
13 didn't do the RPP Program; didn't Mr. Castellano ask
14 you that?

15 A. Why I didn't do the RPP Program?

16 Q. Did he ask you that question?

17 A. Yes, ma'am.

18 Q. Okay. And your answer was, there was no
19 opportunity there when you just drop out; isn't that
20 correct?

21 A. Yes, ma'am.

22 Q. Okay. And at this four-hour meeting that
23 you had in January of 2016, never once, not ever did
24 you ever tell anyone in the federal government that
25 Carlos Herrera had a conversation with you before

1 the Molina murder about his role in the Molina
2 murder, did he? You never said that to them, did
3 you?

4 A. I can't recall.

5 Q. Would you like to look at the report?

6 A. Yeah.

7 MS. BHALLA: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MS. BHALLA:

10 Q. Are you ready?

11 A. Yes, ma'am.

12 MS. BHALLA: May I approach, Your Honor?

13 THE COURT: You may.

14 BY MS. BHALLA:

15 Q. Would you agree with me, Mr. Cordova, that
16 this report is about three pages and one quarter?

17 A. Yes, ma'am.

18 Q. Okay. And you talked about a lot of stuff
19 in this report, didn't you?

20 A. Yes, ma'am.

21 Q. Okay. And nowhere in this report did you
22 say that you knew about the Molina murder ahead of
23 time, did you?

24 A. In that report? That's what it states and
25 that's what's there.

1 Q. Yes or no.

2 A. Yes and no, because I can't explain.

3 Q. You can't explain? Is there any
4 discussion about the Molina homicide in this report,
5 Mr. Cordova?

6 A. In that report, no.

7 Q. No. Do you think the federal government
8 does a pretty good job taking notes usually? Isn't
9 that kind of their job?

10 A. I'm not an FBI agent, I don't know.

11 Q. In August of 2015, you were housed with
12 some other cooperators in this case, weren't you?

13 A. Yes, ma'am.

14 Q. And some of those cooperators were Eric
15 Duran?

16 A. Yes, ma'am.

17 Q. Roy Martinez?

18 A. Yes, ma'am.

19 Q. Mario Rodriguez?

20 A. No, ma'am.

21 Q. All right. Do you recall attending a
22 debrief in July of 2016 -- or actually, hold on, I
23 might have given you the wrong one. It was in
24 December of 2017, so just two months ago. Do you
25 recall that debrief?

1 A. Two months ago?

2 Q. Yeah. It's February of 2018. And you
3 attended a debrief in December of 2017. Do you
4 recall attending a debrief in December of 2017?
5 Days, days after you provided testimony in this
6 case.

7 A. I just know when I talk about the case,
8 stuff like that, yeah, it's a debrief.

9 Q. Would you like to look at it?

10 A. Yes, ma'am.

11 MS. BHALLA: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MS. BHALLA:

14 Q. If you can take a look at the front page.
15 Take your time.

16 Mr. Cordova, may I please draw attention
17 to the last page in the last paragraph.

18 A. Can I finish reading it, ma'am?

19 Q. Do you want to read the whole thing?

20 A. Yes, ma'am.

21 Q. That's fine.

22 Are you ready?

23 A. Yes, ma'am.

24 Q. Do you now recall that debrief?

25 A. Yes, it was a telephonic --

1 Q. It's yes or no.

2 A. Yes.

3 Q. And during that conversation, you took the
4 opportunity to explain to Agent Acee a number of
5 cooperators that you were housed with in 2015. Do
6 you recall that now?

7 A. Explain? A number of cooperators?

8 Q. You told him about a number of cooperators
9 that you were housed with in 2015? Yes or no.

10 A. I can't recall.

11 Q. Would you like to look at the report
12 again?

13 A. Yes, ma'am.

14 MS. BHALLA: May I approach, Your Honor?

15 THE COURT: You may.

16 A. Oh, yes. This was back in 2015. When I
17 was housed with them, 3-B North X pod.

18 BY MS. BHALLA:

19 Q. And you relayed to Agent Acee that you
20 were housed with Mario Rodriguez, correct?

21 A. Yes, ma'am, but he wasn't a cooperator at
22 the time.

23 Q. Were you housed with Mario Rodriguez?
24 That's the question. Yes or no.

25 A. In 2015, 3-B X pod, yes.

1 Q. Okay, thank you. And you were housed with
2 Eric Duran?

3 A. Yes, ma'am.

4 Q. And you were housed with Timothy Martinez?

5 A. Yes, ma'am.

6 Q. And you were housed with Jerry Montoya?

7 A. Yes, ma'am.

8 Q. And you were housed with Roy Martinez?

9 A. Yes, ma'am.

10 Q. Correct?

11 A. Yes, ma'am.

12 Q. And you testified previously that word
13 travels fast in the SNM; right?

14 A. Yes, ma'am.

15 Q. And I'm not going to ask you what you said
16 or what people told you, okay? But what you relayed
17 to Agent Acee was that you had conversations about
18 the Molina homicide with the people in your pod in
19 2015; isn't that true?

20 A. Yes, ma'am.

21 Q. Okay. And everybody was talking about the
22 Molina homicide, weren't they?

23 A. Yes, ma'am.

24 Q. Let's fast-forward to when you recorded my
25 client, Carlos Herrera. Do you recall that time

1 period?

2 A. Yes, ma'am.

3 Q. And this is -- was in it March of 2016 or
4 April of 2016? March or April, give or take?

5 A. March or April.

6 Q. Okay. So this was two years after the
7 murder; is that correct?

8 A. Yes, ma'am.

9 Q. Okay. And part of the conversations that
10 we listened to yesterday involved you telling Carlos
11 Herrera that people were talking, in your words,
12 shit about him. Do you recall that?

13 A. Yes, ma'am.

14 Q. Okay. What happens to a brother who
15 leaves a brother stranded on a mission, according to
16 you?

17 A. You get hit.

18 Q. That's right. And you had the opportunity
19 to talk with all of those guys about the Molina
20 homicide before you got put next to Carlos, didn't
21 you?

22 A. Yes, ma'am.

23 Q. Okay. After you recorded Mr. Herrera, you
24 attended another debrief on July 12 of 2016. Do you
25 recall that meeting that you had with the FBI? I

1 can show you the report if you don't remember.

2 A. No, I remember.

3 Q. Okay. You do?

4 A. Yes, ma'am.

5 Q. And you discussed a number of things in
6 that report, didn't you?

7 A. Yes, ma'am.

8 Q. And one of the things you discussed was
9 that you began trying to explain to agents your drug
10 trafficking history. Do you recall that?

11 A. Yes, ma'am.

12 Q. But they had to stop you and ask you to
13 write a letter because it was too long to relay in
14 one meeting?

15 A. Yes.

16 Q. Did you ever write that letter?

17 A. I'm pretty sure I did.

18 Q. Did you give it to the Government?

19 A. Probably.

20 Q. Yes or no, do you remember?

21 A. I can't recall, Miss.

22 Q. Do you remember writing it?

23 A. To be honest with you, no.

24 Q. Okay. And in this debrief that occurred
25 roughly three months after you recorded my client,

1 never once did you mention the Molina homicide, did
2 you? Do you want to take a look at it?

3 A. I just know I told them I knew about
4 murders.

5 Q. In July of 2016, after you recorded my
6 client, you made no statements to them about his
7 involvement in the Molina murder, did you? Yes or
8 no.

9 A. I can't recall.

10 Q. Would you like to look at the report?

11 A. Yes.

12 MS. BHALLA: May I approach?

13 THE COURT: You may.

14 A. It's not there, but I told --

15 BY MS. BHALLA:

16 Q. Hold on. I haven't asked you a question,
17 Mr. Cordova.

18 MS. BHALLA: May I approach?

19 THE COURT: You may.

20 A. Yes, ma'am.

21 BY MS. BHALLA:

22 Q. Would you agree with me that this report
23 is also three pages and a quarter?

24 A. I didn't write that report, so what's in
25 that report is what's in that report.

1 Q. Would you agree with me that there is no
2 discussion of the Molina homicide in this report?
3 Yes or no.

4 A. In that report, no.

5 Q. Okay. There is a discussion about the
6 Sammy Chavez murder, isn't there?

7 A. Yes, ma'am.

8 Q. And there is a discussion about an unknown
9 Los Carnales Gang member; right?

10 A. Yes, ma'am.

11 Q. And there is a discussion about the Shane
12 Dix murder, isn't there?

13 A. Yes, ma'am.

14 Q. And there is a discussion about the
15 Michael Jiron murder, isn't there?

16 A. Yes, ma'am.

17 Q. No Molina?

18 A. In that report, no, ma'am.

19 Q. The way that you get a deal in this case
20 is to give Agent Acee information on the Molina
21 murder; right? That's what you testified to just a
22 few minutes ago.

23 A. To be honest with them and tell them
24 everything.

25 Q. Okay. And it wasn't until December of

1 2017 that you ever said anything about Carlos
2 Herrera being involved in the Molina murder ahead of
3 time, did you? At least not in any of these
4 reports.

5 A. I recorded him before that; right?

6 Q. Yeah.

7 A. And obviously we talked about it.

8 Q. But you never told the federal government
9 that you had this conversation with Carlos Herrera
10 before the Javier Molina homicide. That is the
11 first time anyone has ever heard about it; right?

12 A. No, because I knew about it.

13 Q. You didn't tell it to the federal
14 government, did you?

15 A. Yes.

16 Q. It's not in the reports, is it?

17 A. I don't know what to tell you, I don't
18 write reports.

19 Q. Okay.

20 MS. BHALLA: May I have just a moment,
21 Your Honor?

22 THE COURT: You may.

23 BY MS. BHALLA:

24 Q. Mr. Cordova, you testified with
25 Mr. Castellano and Mr. Villa that you were able to

1 use the system and manipulate the rules to get
2 lighter sentences, didn't you?

3 A. Yes, ma'am.

4 Q. And that's what you're doing in this case,
5 isn't it?

6 A. Have I ever ratted before this case?

7 Q. No. Are you manipulating the rules to get
8 what you want and to get out of trouble? Yes or no.

9 A. No, ma'am.

10 MS. BHALLA: Thank you, Your Honor. I
11 pass the witness.

12 THE COURT: Thank you, Ms. Bhalla.

13 Ms. Jacks, do you want to go next?

14 MS. JACKS: Thank you, Your Honor.

15 THE COURT: Ms. Jacks.

16 CROSS-EXAMINATION

17 BY MS. JACKS:

18 Q. Mr. Cordova, I want to pick up sort of
19 where Ms. Bhalla just left off. Because you've told
20 us before under oath that when you see a weakness in
21 the system, you exploit it; right?

22 A. Yes, ma'am, I did.

23 Q. And with respect to this case -- well,
24 with respect to your role here as a government
25 witness, you've managed to exploit that pretty well,

1 haven't you?

2 A. I don't know. I don't know how you see
3 exploiting what I'm doing.

4 Q. Well, you've, A, avoided any sort of
5 criminal charges for your activities in relation to
6 the SNM Gang; right?

7 A. I'm also validating a death sentence by
8 the SNM and other prison gangs out there.

9 Q. Excuse me, Mr. Cordova. I'm going to ask
10 you to answer the question I ask, not the one you
11 want to answer.

12 A. Yes, ma'am.

13 Q. So you've avoided getting any sort of
14 criminal charges levied against you by becoming a
15 government witness in this case; right?

16 A. Yes, ma'am.

17 Q. And you've gotten -- I think we've
18 discussed, you've gotten more favorable conditions
19 of confinement? Oh, you don't -- you haven't gotten
20 more favorable conditions of confinement?

21 A. I'm not an SNM Gang member no more. I'm
22 like every other inmate right now.

23 Q. My question, Mr. Cordova, is whether, as a
24 result of your role as a government witness, you've
25 been given more favorable confinement conditions?

1 A. No.

2 Q. All right.

3 MS. JACKS: Can we have that letter, the
4 pizza party letter, EJ? Is that somewhere around?

5 Q. Mr. Cordova, I think Mr. Villa discussed
6 this letter with you, Defense Exhibit EJ. Do you
7 recall that?

8 A. Yes, ma'am.

9 Q. A little bit earlier today?

10 A. Yes, ma'am.

11 Q. And can we go to the second page? You're
12 a signatory to this letter; right?

13 A. That's not my signature, but I'm on that
14 letter.

15 Q. Okay. Your name and your New Mexico
16 Department of Corrections number is on that letter;
17 right?

18 A. Yes.

19 Q. And your name and your Department of
20 Corrections number was put on that letter because
21 you were one of the people asking for the
22 recognition that that letter was seeking; right?

23 A. Yes, ma'am.

24 Q. And who wrote the letter?

25 A. To be honest with you, I can't recall.

1 Q. Well, was it one of the people that signed
2 the letter?

3 A. There is no signatures on it.

4 Q. Well, was it one of the people listed as
5 the person who the letter is from?

6 A. Who is the letter from?

7 Q. Well, the letter -- have you written
8 letters before, Mr. Cordova?

9 A. Not many, Miss.

10 Q. Well, when you write a letter and then you
11 sign off "Sincerely," comma, then do you generally
12 put the name of the person who the letter is from?

13 A. I understand that, Miss, but there is not
14 a signature there. That's a print.

15 Q. I understand that. But would you agree
16 with me that after "Sincerely," there is a listing
17 of five government witnesses?

18 A. Yes, ma'am.

19 Q. And the letter, have you read the letter?

20 A. Yes, ma'am.

21 Q. And the letter is asking the warden of the
22 Penitentiary of New Mexico to provide a holiday
23 party for these five government witnesses and their
24 family; right?

25 A. Yes, ma'am.

1 Q. And the letter was written --

2 MS. JACKS: Can we go back to the first
3 page of the letter?

4 Q. The letter was requesting this holiday
5 party because of how -- to celebrate sort of the
6 government witnesses' cooperation and recognition of
7 law enforcement that they've been working with;
8 right?

9 A. Yes.

10 Q. Okay. I want to direct your attention
11 to --

12 MS. JACKS: Can we have I think it's the
13 third paragraph. Can I ask you to read the first
14 sentence there in that third paragraph. You can
15 read it out loud. Mr. Cordova, can I ask you to
16 read that sentence out loud, beginning with "It is
17 our desire"?

18 A. Do I gotta read it out loud?

19 Q. I'm asking you to.

20 A. I guess it states, "It's our desire to
21 express genuine gratitude and respect for all the
22 Corrections administration and staff and law
23 enforcement personnel responsible for our current
24 and wonderful circumstances. We believe" --

25 Q. Let me stop you. Just read the sentence I

1 asked you to. So that sentence in the letter, that
2 was sent, at least in part, on your behalf, says
3 that "We would like to express gratitude for our
4 current and wonderful circumstances."

5 A. Yes, ma'am.

6 Q. So by agreeing to have your name appended
7 onto this letter requesting this holiday celebration
8 for your family, did you also agree that your
9 current circumstances of incarceration were
10 wonderful?

11 A. Yes, ma'am.

12 Q. And prior to becoming a Government
13 witness, would you have described your circumstances
14 of incarceration in the New Mexico State prison as
15 wonderful?

16 A. No, ma'am.

17 Q. So tell us what sort of benefits you
18 received, in terms of your conditions of
19 confinement, as a result of being a Government
20 witness.

21 A. It wasn't for being a Government witness.
22 It was for no longer being an SNM Gang member. I
23 was allowed out of the solitary confinement. And
24 into an RPP dropout program, which I'm currently not
25 out.

1 Q. And you got more phone calls with your
2 family?

3 A. Like a regular inmate, yes.

4 Q. You got money put on your commissary by
5 the federal government?

6 A. Yes, that was a benefit. Yes.

7 Q. You got family contact visits?

8 A. That, I can't say if it was a benefit or
9 not because --

10 Q. Well, Mr. Cordova, we just saw you
11 engaging in sex --

12 A. I understand that.

13 Q. -- with your wife four times over a period
14 of two months. Was that a benefit that you received
15 because of your status as a Government witness?

16 A. I don't know.

17 Q. Well, how many other people do you know in
18 the New Mexico Department of Corrections that are
19 engaging in sex with their wives repeatedly?

20 MR. CASTELLANO: Objection.

21 THE COURT: Overruled.

22 A. Whenever the opportunity arises. People
23 sneak into bathrooms and it happens. It occurs.

24 BY MS. JACKS:

25 Q. It was a situation, it was a benefit you

1 got, a contact visit that you exploited for your own
2 pleasures?

3 A. Yes, ma'am. I exploited it.

4 Q. Now, in addition to the benefits you had
5 already gotten, you expect to still get more
6 benefits; right?

7 A. Do I expect to get more benefits?

8 Q. Yeah. Benefits don't just stop.

9 A. I'm not getting no benefits.

10 Q. Well, are you expecting some sort of
11 benefits once you get out of prison?

12 A. No, ma'am.

13 Q. Well, let me direct you to a phone call on
14 November 16, 2016 with your wife Crystal.

15 A. Yes, ma'am.

16 Q. You talked to her quite a bit; right?

17 A. Yes.

18 Q. And one of the things that you've talked
19 to her about is what's going to happen to you when
20 you finally get out of prison; right?

21 A. Yes, ma'am.

22 Q. And have you told her in these phone
23 calls, and I'm going to specifically talk about this
24 one on December 16 of 2016, that the Government is
25 going to give money, ferial, when you get out of

1 prison?

2 A. That's part of a witness protection
3 program if I wanted to go into it.

4 Q. So the answer is yes, you did tell her
5 that.

6 A. Yes.

7 Q. Did you tell her that the Government was
8 going to line you up with a job when you get out of
9 prison?

10 A. Yes, ma'am.

11 Q. Did you also tell her that they were going
12 to get you a pad?

13 A. I guess. If that's what's there, that's
14 what's there.

15 Q. What's a pad?

16 A. A house.

17 Q. So they're going to give you money,
18 they're going to line you up with a job and they're
19 going to get you a house?

20 A. Yes, ma'am.

21 Q. And isn't there something else you talked
22 to her about that you were going to get when you got
23 out of prison?

24 A. What is it?

25 Q. Well, what goes with a job, money and a

1 house?

2 A. I don't know.

3 Q. A car.

4 A. Right.

5 Q. Did you tell her they're going to get you
6 a car too?

7 A. Probably.

8 Q. And they're just going to move you
9 wherever you want to go and set you up with this
10 car, this job, this money and this house; right?

11 A. Yes, ma'am.

12 Q. I want to talk to you about your meetings
13 with Agent Acee. Because when you first met with
14 Agent Acee, he came and told you that you were going
15 to be charged in a racketeering prosecution; right?

16 A. He didn't say was going to be charged.
17 They were looking at me.

18 Q. That you basically had a choice. You were
19 at a fork in the road, and either you could be a
20 defendant in a federal prosecution facing potential
21 life sentence or the death penalty, or you could be
22 a witness?

23 A. Yes, ma'am.

24 Q. And when you met with Agent Acee after
25 that, did he tell you how it was that he wanted you

1 to be a witness? Did he tell you what he wanted you
2 to do?

3 A. Explain yourself, like elaborate. What do
4 you mean?

5 Q. Let me be a little bit more specific.
6 When Agent Acee -- you showed some interest about
7 being a witness rather than a defendant. Did Agent
8 Acee talk to you about this idea he had about
9 sending you into prison to make recordings of
10 people?

11 A. I told him what I can possibly do and he
12 asked me if I could record it for him. And I said
13 yes.

14 Q. And did Agent Acee explain to you at that
15 time why it was that he thought it was important
16 that you record whatever conversations you were
17 having?

18 A. So that way it's just not hearsay, it's
19 actual proof and evidence for the federal
20 government.

21 Q. You've been asked this question before;
22 right?

23 A. What?

24 Q. This exact question about what Agent Acee
25 told you, about why he wanted you to record

1 conversations. You were asked this in December in
2 hearings in the case in front of Judge Browning,
3 weren't you?

4 A. Yes, ma'am.

5 Q. Do you recall what your answer was at that
6 time?

7 A. What was it?

8 Q. Well, it wasn't what you just said, was
9 it?

10 A. No. Before you asked me if they coached
11 me into being an informant. They didn't coach me.
12 He asked me --

13 Q. Mr. Cordova, on December 12 of 2017, did
14 you say the reason Agent Acee wanted you to wear a
15 recording device --

16 MS. JACKS: And I'm referring Court and
17 counsel to that transcript at page 288, line 6.

18 Q. "Because my say-so, my word, wouldn't
19 matter. So he needed me to get it on a recording."

20 A. You're a lawyer. Would it matter?

21 Q. My question to you, Mr. Cordova, is, was
22 that your testimony in December of 2017?

23 A. Yes, ma'am.

24 Q. So let's talk about the testimony that
25 you've given today. Because today you've said --

1 you claimed for the first time that you actually saw
2 the paperwork that Lupe Urquizo supposedly brought
3 down from the Penitentiary of New Mexico; right?

4 A. No.

5 Q. You've never said that before today, have
6 you?

7 A. Yes, I have.

8 Q. When?

9 A. When we first started doing this, I knew
10 about the murder.

11 Q. Wait a second. It's your testimony, your
12 sworn testimony under oath, that you've previously
13 said you've seen the paperwork?

14 A. Yes, I stated that even in December.

15 Q. Let me just go through this. Okay? On
16 March 10th of 2014, right after the murder of -- the
17 homicide of Javier Molina, were you interviewed by
18 members of law enforcement?

19 A. When?

20 Q. March 10th of 2014.

21 A. Yes.

22 Q. Okay. And did you tell them you didn't
23 know anything, you weren't even in the pod?

24 A. Was I an SNM Gang member?

25 Q. You answer my question. Don't ask

1 questions.

2 A. I'm asking, was I active?

3 MS. JACKS: Excuse me. Your Honor, can
4 the witness be instructed to answer the question
5 rather than ask questions?

6 THE COURT: Yeah. Just answer her
7 question. And if you don't understand, you can say
8 "I don't understand." But probably --

9 THE WITNESS: I don't understand.

10 THE COURT: All right. You can say that.

11 BY MS. JACKS:

12 Q. Well, you can't fake not understanding a
13 question. You understand that, Mr. Cordova.

14 A. It was in 2014?

15 Q. Answer that question. You understand that
16 you can't sit up there and say you don't understand
17 when you do; right?

18 A. Right. In 2014?

19 Q. Excuse me. Answer that question.

20 A. Oh, I understand what you're saying.

21 Q. All right. Then I'm going to ask the next
22 question.

23 On March 10th of 2014, did you tell
24 members of law enforcement that you didn't know
25 anything about the homicide of Javier Molina because

1 you weren't even in the pod?

2 A. Yes, ma'am.

3 Q. Thank you. And on December 22nd of 2014,
4 did you have contact with members of the STIU unit
5 at the Penitentiary of New Mexico?

6 A. December 22nd?

7 Q. 2014.

8 A. No, ma'am.

9 Q. On January 4th of 2016, did you give an
10 interview to the FBI?

11 A. 2000 when?

12 Q. 2016. This is your first contact with
13 Agent Acee.

14 A. Yes, ma'am.

15 Q. And during that interview, which I think
16 you've told us was four hours long, did you say
17 anything about seeing paperwork that somebody
18 supposedly brought down from the Penitentiary of New
19 Mexico regarding Javier Molina?

20 A. No, ma'am.

21 Q. On February 9th of 2016, you were
22 interviewed by the FBI; right?

23 A. Yes.

24 Q. And during that meeting, did you say
25 anything to the FBI about actually seeing paperwork

1 that was supposedly brought down regarding Javier
2 Molina?

3 A. I can't recall.

4 Q. What about February 16th, 2016, did you
5 also have an interview with the FBI on that day?

6 A. Yes, ma'am.

7 Q. And during that interview, did you say
8 anything about seeing paperwork regarding Javier
9 Molina?

10 A. No, ma'am. I can't recall.

11 Q. Well, is it no, or is it you can't recall?

12 A. I can't recall.

13 Q. On July 12th of 2016, you had yet another
14 interview with the FBI regarding this case; right?

15 A. Yes, ma'am.

16 Q. And the during that interview, did you say
17 anything to the FBI about you seeing paperwork
18 regarding Javier Molina?

19 A. On when?

20 Q. July 12th of 2016.

21 A. Yes, by that time, yes, for sure.

22 Q. You're for sure you talked about it then?

23 A. Yes, had to be.

24 Q. Just so that we can be accurate,

25 Mr. Cordova, would you like to review a report of

1 that interview with the FBI? Just to make sure.

2 And perhaps --

3 A. Yes.

4 Q. -- point out to me where it was that you
5 talked about seeing the paperwork.

6 A. Before -- I don't write the reports, so I
7 don't know what's in the report or not.

8 Q. So you don't want to see it?

9 A. If it's not in there, then there's no
10 point for me to even see it; right?

11 Q. My question is: Do you want to see the
12 report or not?

13 A. No, ma'am.

14 Q. It's up to you.

15 A. I'm good.

16 Q. So let's move forward. On December 12th
17 of 2017, we've already talked about this, you
18 actually testified in a pretrial hearing in this
19 case; right?

20 A. Yes, ma'am.

21 Q. And at any point during that hearing did
22 you testify that you actually saw paperwork that had
23 been brought down to Southern regarding Javier
24 Molina?

25 MR. CASTELLANO: Objection, Your Honor.

1 That wasn't the subject of that hearing and she
2 knows that.

3 THE COURT: Overruled. You can --

4 A. Yes, ma'am.

5 THE COURT: -- go out there on redirect.

6 BY MS. JACKS:

7 Q. You're saying you testified to that during
8 that hearing?

9 A. Yes, ma'am.

10 Q. On December 15th of 2017, so that was just
11 a few months ago, I think this was the telephonic
12 interview that you had with Agent Acee. Do you
13 recall that conversation?

14 A. Yes, ma'am.

15 Q. Did you tell Agent Acee on December 15,
16 2017 that you actually saw paperwork that was
17 brought down to Southern regarding Javier Molina?

18 A. I don't think we talked about it then.

19 Q. So that's a no?

20 A. No, ma'am.

21 Q. And what about January 24th, 2018, did you
22 say anything -- you had another meeting with
23 prosecutors and the FBI on that day; right?

24 A. Yes, ma'am.

25 Q. And you didn't say anything in that

1 meeting about seeing paperwork at Southern regarding
2 Javier Molina, did you?

3 A. I don't believe so, Miss.

4 Q. So today is the first time that you're
5 saying that?

6 A. No, ma'am.

7 Q. And let's get your story -- let's get your
8 story today straight, because I want to try to
9 understand it. I think you said that you saw some
10 paperwork that Mr. Herrera showed you?

11 A. Yes, ma'am.

12 Q. And can you tell me what day is it that
13 you claim this actually happened?

14 A. It could have been either March 6th or
15 March 7th. It was the same day the murder happened.

16 Q. Well, okay. You told me two days and then
17 you told me one day. So let's --

18 A. I can't -- that's what I'm saying. I
19 can't --

20 Q. Let me stop.

21 A. -- know for sure date.

22 Q. Let's see if we can't figure this out.

23 A. Yes, ma'am.

24 Q. Okay. According to the story that you're
25 telling us today, did you see that paperwork the day

1 that Mr. Molina was killed?

2 A. Yes.

3 Q. Or the day before?

4 A. No, I seen it the day he was killed.

5 Q. Okay. And according to your story, when
6 did you see it, what time of day?

7 A. Yes, I -- around, I would say, around 1:00
8 in the afternoon.

9 Q. Okay. So you're timing it after lunch?

10 A. Yes, ma'am.

11 Q. After -- so once you were released from
12 your lunch lockdown?

13 A. Yes, ma'am.

14 Q. Prior -- so around 1:00, is there
15 something that was happening in the pod that you're
16 tying that time period to?

17 A. Yes, ma'am. I was sitting down in front
18 of Archie, Archie's cell, and that's when Herrera
19 was showing me the paperwork.

20 Q. So -- and 1:00 p.m. is your best estimate?

21 A. Yes, between 1:00 and 2:00.

22 Q. Okay. On March 7, 2014, between 1:00 and
23 2:00 p.m.?

24 A. Yes, ma'am.

25 Q. In yellow pod, is your story?

1 A. Yes, ma'am.

2 Q. And I think when Mr. Castellano asked you
3 the questions, you said it was more than one page,
4 it was several pages?

5 A. It was a few pages. It was like in
6 between some legal paperwork of Lupe Urquizo's
7 paperwork, it was in the middle. It was in a manila
8 envelope. And all I remember, the manila envelope
9 was kind of ripped on the top, like to open it, when
10 you open mail. That's all I remember.

11 Q. And what was in this manila envelope,
12 these few pages that you're talking about?

13 A. Yes, ma'am. It was just something about a
14 robbery, about --

15 Q. I'm not -- I'm asking you not what the
16 paperwork said right now. I'm asking you physically
17 how it appeared.

18 A. Right, Miss.

19 Q. So just so that we get your version of
20 things straight, you're saying that whatever it was,
21 was a few pages?

22 A. Yes, ma'am.

23 Q. And it was white paper?

24 A. Yes, ma'am.

25 Q. Did it have typing on it?

1 A. Yes, ma'am.

2 Q. And was the typing black and white or was
3 it in color?

4 A. No, ma'am, it was in black letters.

5 Q. Black letters?

6 A. Yes, ma'am.

7 Q. And the pages were taken out of a manila
8 envelope with a rip on the top?

9 A. Yes, ma'am.

10 Q. And do you have an estimate of the number
11 of pages that you're claiming you saw?

12 A. It was in the middle of legal work, right
13 in the middle. And there was maybe about three or
14 four pages that was paperwork, actual paperwork on
15 Javier Molina. And what I remember from it is
16 the -- his name was in bold letters, some of it was
17 in bold letters. And that was it. That's all I can
18 remember.

19 Q. So some of the writing, you say, was in
20 bold?

21 A. Yes, ma'am.

22 Q. Was there any other colors on the paper
23 that you're telling us about?

24 A. Not that I can remember, not that I can
25 recall. The only thing I know is his name was

1 underlined.

2 Q. Well, wait. You said bold.

3 A. Bold letters. And his name was
4 underlined. It stood out.

5 Q. Stop, okay? Because you said two
6 different things so I want to make sure that we get
7 this straight. You initially said it was bold;
8 correct?

9 A. Yes, because it stood out.

10 Q. Let me stop you. And bold, so that we
11 know we're speaking the same language, means that
12 it's darker than the other printing on the paper.
13 Is that what your understanding of bold is, Mr.
14 Cordova?

15 A. No, his name was underlined is what I
16 remember. That's what I can recall from the
17 paperwork, his name was underlined. It was like
18 bolded --

19 Q. Can you go back and answer the question
20 that I asked?

21 A. Yes, ma'am.

22 Q. The question that I asked is, is your
23 understanding of the term "bold" meaning that the
24 printing is darker than the other print on the page.

25 A. No, what I mean is it stood out. His name

1 was underlined.

2 Q. So what you're saying is that it wasn't
3 bold print, it was regular print but underlined?

4 A. No, it was -- it was -- I think it was a
5 little bit darker, it was kind of bold. Because it
6 stood out. All I know is the name, when I -- you
7 can look through the paperwork right away. What
8 stood out first right away was his name. I remember
9 that. And I read through the paperwork and I was
10 just, like, whatever.

11 Q. Mr. Cordova, I'm not asking you what your
12 reaction was. I'm asking you what you're saying you
13 saw.

14 A. That's what I saw.

15 Q. Do you understand the difference in that?

16 A. What I remember is his name stood out.
17 And his name was underlined in the paperwork. And
18 that's all I remember.

19 Q. You've said two different things, so I
20 want to pick one.

21 A. Yes, ma'am.

22 Q. If you don't know, say you don't know.

23 A. No.

24 Q. But you've said two different things and I
25 want to just register that, I want to make sure we

1 have a chance to at least have a meeting of the
2 minds as to what you're saying.

3 A. Okay.

4 Q. Okay. So you've said it was bold.

5 A. Yes, ma'am.

6 Q. You said it stood out, and you said it was
7 underlined.

8 A. Yes, ma'am.

9 Q. Okay. I just want to -- if -- according
10 to you, I think we understand bold means darker
11 than?

12 A. Yes, ma'am.

13 Q. So are you sticking with your story that
14 it was bold?

15 A. What I'm trying to say is --

16 Q. Excuse me. Can you answer the question?

17 MR. CASTELLANO: Your Honor, he's trying
18 to answer the question.

19 THE COURT: Well, I'll let Ms. Jacks
20 control the witness. Overruled.

21 A. All right, Miss.

22 BY MS. JACKS:

23 Q. Can you answer the question?

24 A. All I remember --

25 Q. Are you sticking with your story that it

1 was bold?

2 A. It stood out. That's all I know.

3 Q. Okay. So you don't know if it was bold or
4 if it was underlined; but for some reason you have
5 an image of the name standing out?

6 A. Yes, because it was underlined.

7 Q. Okay. Mr. Urquizo -- I'm sorry, excuse
8 me. Mr. Cordova, I'm not asking where you're
9 housed, okay? But you were transported from
10 somewhere down here to testify; right?

11 A. Yes, ma'am.

12 Q. And when did that transport occur? Are
13 you looking at somebody in the back for answers?

14 A. What was it, like December? No, January,
15 the beginning of January.

16 Q. And during the time that you've been
17 awaiting to testify, have you been housed with other
18 government cooperating witnesses?

19 A. Yes, ma'am.

20 Q. And can you list for us the ones that you
21 remember being housed with?

22 A. BB.

23 Q. That would be -- do you know his real
24 name?

25 A. Yeah, there is BB, Red, Blue, Crazo. Most

1 of them guys I know by their nicknames. Most of us
2 go by our nicknames so that's why --

3 Q. Why don't want give me the nicknames and
4 then we'll go through and pair them up with the real
5 names.

6 You said BB, Red, Blue and Crazo.

7 A. Yes, ma'am.

8 Q. So who else? Anybody?

9 A. Playboy. And that's it. That's all I can
10 recall.

11 Q. So let's test my memory. BB, is that
12 Javier Rubio?

13 A. Yes, it is, Miss.

14 Q. Red, is that Timothy Martinez?

15 A. Yes, ma'am. Yes, ma'am.

16 Q. Blue, is that Mario Rodriguez?

17 A. Yes, ma'am. Yes, ma'am.

18 Q. Crazo, is that Eric Duran?

19 A. Duran, yes, ma'am.

20 Q. And Playboy, is that Frederico Munoz?

21 A. I know it's Freddie. I don't know if his
22 last name is Munoz. I know it's Frederico, though.

23 Q. And do you know whether each one of those
24 people has previously testified in this trial?

25 A. To my knowledge, no, ma'am.

1 Q. Let's move on to another topic. And I
2 want to talk to you -- well, first of all, I want to
3 ask you a question. I want to go back to the day
4 that Javier Molina was killed.

5 A. Yes, ma'am.

6 Q. And you were housed in yellow pod; right?

7 A. Yes, ma'am.

8 Q. And Mr. Molina was housed in blue pod?

9 A. Yes, ma'am.

10 Q. Now, when the incident happened, when
11 Mr. Molina was assaulted, did you see him run out of
12 blue pod?

13 A. No, I seen the door open to his pod. And
14 right at the door is where I seen him like, kind of
15 like, you know what I mean? So when you look
16 through the door, he's kind of like -- I thought he
17 had came out, but what I came to see is he fell
18 right there, right at the door, right where the door
19 opens to the pod. Right there at the corner of the
20 wall and the doorway, that's where I seen him.

21 Q. We've talked --

22 A. Kind of like coming out of the pod but not
23 coming out of the pod. You get what I'm saying?

24 Q. We talked a little bit about your December
25 15th, 2017 interview with the FBI; right?

1 A. Yes, ma'am.

2 Q. And during that interview were you asked
3 about your observations the day that Mr. Molina was
4 killed?

5 A. Yes, ma'am.

6 Q. And did you tell the FBI -- let's see, and
7 this would have been Agent Acee.

8 A. Yes, ma'am.

9 Q. This was a meeting that -- actually, this
10 was the telephonic meeting; right?

11 A. Yes, ma'am.

12 Q. Where Agent Acee was with your lawyer and
13 then they called you?

14 A. Yes, ma'am.

15 Q. Did you tell Agent Acee on December 15th
16 of 2017 that you observed Molina exit the blue pod
17 with a nurse and corrections staff?

18 A. I said there was a nurse there, there was
19 a nurse and staff.

20 Q. Let me --

21 A. The nurse had just left.

22 Q. Excuse me, Mr. Cordova. I'm going to ask
23 you a question, you answer it. And then I'm going
24 to ask you another question, and you're going to
25 answer that. And then if there is some sort of

1 explanation, Mr. Castellano can bring that out on
2 redirect, okay?

3 So the question is: On December 15th of
4 2017, did you tell the FBI, specifically Agent Acee,
5 that you observed Molina exit the blue pod with a
6 nurse and corrections staff?

7 A. Not -- not exit with them. I know they
8 were around.

9 Q. So the answer, then, to the question would
10 be no; right? If you didn't say it, the answer to
11 the question is no.

12 A. That's probably what I told them, that's
13 probably what I said.

14 Q. Okay. I'm going to ask the question again
15 and I'm going to get an answer to it. And the
16 answer is going to be yes or it's going to be no.

17 A. Yes, ma'am.

18 MR. CASTELLANO: Objection. Asked and
19 answered.

20 MS. JACKS: It hasn't been answered.

21 MR. CASTELLANO: She didn't like the
22 answer.

23 MS. JACKS: That's not correct.

24 THE COURT: Overruled.

25

1 BY MS. JACKS:

2 Q. Mr. Cordova, did you tell Agent Acee on
3 December 15th of 2017 that you observed Molina exit
4 the blue pod with a nurse and corrections staff?

5 A. No, ma'am.

6 Q. Did you tell Agent Acee on December 15th
7 of 2017 that you saw Molina fall down onto the
8 ground right outside the door?

9 A. Right where the door opens outside.

10 Q. That's another question, that's a yes or
11 no. Okay? So I'm going to ask it. The answers are
12 either yes or no.

13 A. I guess.

14 Q. Did you tell Agent Acee on December 15th
15 of 2017 that you saw Molina fall down onto the
16 ground right outside the door?

17 A. Yeah. I seen him fall down right outside
18 the door. I was looking out --

19 Q. Wait. That's not -- the question --

20 A. Yes.

21 Q. Okay. We need be very clear.

22 A. Yes, ma'am.

23 Q. The question is not what you saw or what
24 you now say you saw. The question is what you told
25 Acee on December 15th. Do you understand the

1 distinction?

2 A. Yes, ma'am. Yes.

3 Q. So let's try it one more time.

4 A. Yes, ma'am.

5 Q. On December 15th of 2017, did you tell
6 Agent Acee that you saw Molina fall down onto the
7 ground right outside the door?

8 A. Yes, ma'am.

9 Q. Okay. I want to talk to you a little bit
10 about your testimony yesterday about Mr. Sanchez
11 asking you for a shank.

12 A. Yes, ma'am.

13 Q. Okay. And maybe it was this morning, I
14 can't remember if it was -- I think it was yesterday
15 and again this morning. And I think what you told
16 this jury was that either on March 6th or 7th,
17 Daniel Sanchez asked you for a shank or a fierro.

18 A. Yes, ma'am.

19 Q. So I'm correctly stating what your
20 testimony was here in this trial?

21 A. Yes, ma'am.

22 Q. First of all, did you tell that to the FBI
23 at any point in 2014, during any of your interviews?

24 A. I can't recall, Miss.

25 Q. Did you tell that to the FBI or law

1 enforcement at any point during 2015?

2 A. I can't recall, Miss.

3 Q. Did you tell that to the FBI or law
4 enforcement at any point during the year 2016?

5 A. I can't recall, Miss.

6 Q. Well, the first time you ever mentioned to
7 anybody in law enforcement about Mr. Sanchez
8 supposedly asking you for a shank was on this same
9 December 15th, 2017 phone call, wasn't it?

10 A. I can't recall, Miss. I don't -- no, that
11 was not the first time, I don't believe so.

12 Q. Well, when you brought it up on December
13 15th of 2017, did you say that Mr. Sanchez asked you
14 for a shank on March 6th or 7th, right before
15 Mr. Molina was killed?

16 A. Yes, ma'am.

17 Q. Let me ask you a question. This is a
18 another one of those yes-or-no questions, and it
19 regards what you told Agent Acee. Are you ready for
20 it?

21 A. Yes, ma'am.

22 Q. So on December 15th of 2017, did you tell
23 Agent Acee the following: While living in yellow
24 pod in March 2014, Cordova had a fierro, or shank.
25 About a week before Urquizo and Varela arrived,

1 Daniel Sanchez asked Cordova for his shank?

2 A. Yes, ma'am.

3 Q. Do you agree with me that that's different
4 than what you've told this jury during this trial?

5 A. Yes, ma'am.

6 MS. JACKS: I have nothing further.

7 THE COURT: Thank you, Ms. Jacks.

8 Anything from Mr. Baca, Ms. Duncan?

9 MS. DUNCAN: No questions, Your Honor.

10 THE COURT: Thank you, Ms. Duncan.

11 All right. Mr. Castellano, do you have
12 redirect?

13 MR. CASTELLANO: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. CASTELLANO:

16 Q. Mr. Cordova, if you didn't say anything to
17 the FBI about the Molina murder, how did you find
18 yourself next to Mr. Perez and Mr. Herrera? Did
19 that magically happen without you telling them
20 something about the Molina murder?

21 A. I told them about the Molina murder.

22 Q. And so when you told them, you testified
23 yesterday you knew someone was missing when you saw
24 the people come into MDC in December; is that
25 correct?

1 A. Yes, sir.

2 Q. As so when that happened, once again, how
3 did you find yourself next to Mr. Perez and
4 Mr. Herrera if you didn't say anything to the FBI
5 about that?

6 A. Because they put me there because I told
7 them about the murder.

8 Q. That would make sense, wouldn't it?

9 A. Exactly.

10 Q. Is it your testimony that you believe that
11 each of these individuals would say something to you
12 about the Molina murder because they were in fact
13 involved with it?

14 A. Yes.

15 Q. And did each of them make admissions to
16 you about their involvement in the Molina murder?

17 A. Yes.

18 Q. The defense attorneys asked you about --
19 Mr. Perez' attorney asked you about why you said
20 certain things on the phone in terms of facing the
21 death penalty and threats to your family. Why did
22 you say things like that to your family on the
23 phone?

24 A. My family come from the same background I
25 come from. My mom is a Sabarenas (phonetic),

1 Barelas. My dad used to run drugs. My family, they
2 look down on rats. My whole life I was taught never
3 to rat.

4 I was conflicted. I was going through --
5 I didn't know my phone calls were going to be blown
6 up like this. You know, it was just something to
7 help me cope with what I was doing.

8 Q. Let me ask you this. How did people like
9 your mom and your dad feel about you cooperating
10 with the Government? Do they support that?

11 A. No, they don't. Before my wife didn't
12 even support it until I kind of talked her into it.
13 Then she was like, "I got you." You know what I
14 mean? And like I said, you know, I thought they
15 were private conversations with my family. I was
16 going through a lot of conflicted emotions at the
17 time.

18 Q. Let's talk about that. You told us
19 yesterday that you were in a gang before age 10.

20 A. Yes, sir.

21 Q. And so what have you known your whole
22 life?

23 A. Never to rat. And what civilians see as
24 right, we see as wrong. What you guys see as wrong,
25 we see as right. And my whole life I was taught

1 that.

2 Q. So what were you conflicted about when you
3 decided to cooperate with the Government?

4 A. My whole reputation, everything I ever
5 worked for, and I worked hard for it. I did years
6 in solitary confinement for it. I've been stabbed.
7 I've been beat up. I've been shot at. Been shot.
8 I defended my neighborhood. I fought hard for my
9 reputation. And to me, that's who I was. When I
10 did this, I was just tired. I had enough.

11 Q. And when you -- before you cooperated,
12 what would you have done to people like you?

13 A. I would have smashed them or I'd have
14 killed them. And I have. I've smashed rats. I've
15 done bad things to people that have doing what I'm
16 doing, yes.

17 Q. Now, there is talk about rumors about
18 moving on Rudy Perez. Would anyone have moved on
19 Rudy Perez without paperwork?

20 A. No. Those are rumors. You just need
21 black and white to prove it.

22 MR. VILLA: Objection. Your Honor, he's
23 speculating about what other people might have done.

24 THE COURT: Well, he can give his
25 understanding. He'll couch it in those terms.

1 BY MR. CASTELLANO:

2 Q. Like you said, at this point it was a he
3 said/she said about what he may or may not have said
4 to law enforcement.

5 A. You can't move on another brother without
6 that. Not in those times. Brothers were putting a
7 stop to that.

8 Q. And Rudy Perez made pretty clear to you
9 that he's a solid brother who follows the rules;
10 isn't that true?

11 A. Yes.

12 Q. And did he tell you that when New Mexico
13 State Police asked him about the shanks, that he
14 said that he was in the shower when they
15 disappeared? Did he tell you that?

16 A. That he was in the shower when they
17 disappeared?

18 Q. He wasn't even there whenever the shanks
19 gotten taken.

20 A. Yes. He told me he wasn't around when the
21 shanks got taken.

22 MS. JACKS: Excuse me, Your Honor. To the
23 extent that the cross-examination is referencing
24 statements by Mr. Perez, we'd request limiting
25 instructions.

1 THE COURT: Since these statements are
2 part of telephone calls, I will give the limiting
3 instructions. These are statements that we're going
4 over from the telephone calls, so you can only
5 consider them as to Mr. Perez, not as to the other
6 three gentlemen.

7 Mr. Castellano.

8 BY MR. CASTELLANO:

9 Q. Isn't that what a good brother does, he
10 throws law enforcement off and doesn't make
11 admissions?

12 A. Of course. That's why I denied it in
13 2014, when they came and asked me, of course I'm not
14 going to tell.

15 Q. I was going to get to that. So in 2014,
16 law enforcement approaches you about what you know
17 about Molina. Were you a good SNM member at that
18 time?

19 A. Yes, I was active. And of course I'm not
20 going to rat to law enforcement and ruin my career.
21 It's a career. When you're a gang member like we
22 are, what you guys see, lawyers. Imagine, yourself,
23 Mr. Castellano, right now, in your life, in your
24 career, if you picked up a charge, how life breaking
25 that would be; right?

1 Q. I understand your point.

2 A. Well, that's the same way I feel right
3 now. I'm ratting. I'm a rat. In our world, I'm a
4 piece of junk. I'm worthless now. I'm scum. I
5 threw all my reputation away. All my career.

6 And I know it's hard for some of these
7 people to understand because they never lived it,
8 but when I put it in them terms, if one of these
9 individuals, these lawyers right now were to pick up
10 a charge --

11 MS. JACKS: Excuse me, Your Honor. I
12 don't think there is any question pending.

13 A. You know what I'm saying?

14 THE COURT: Well, let's go to a question
15 and answer.

16 BY MR. CASTELLANO:

17 Q. I need you to listen very carefully to my
18 questions. I'm going to give you lots of chances to
19 explain things that the defense attorneys didn't let
20 you. Okay?

21 A. Yes.

22 Q. I'm going to cover all those areas.

23 MR. VILLA: Objection, Your Honor, to the
24 comment.

25 THE COURT: Let's not comment on the

1 evidence. Just ask questions.

2 MR. VILLA: Well, it's the comment that
3 the defense attorneys didn't let --

4 THE COURT: I said don't comment on it.
5 So that's been taken care of, Mr. Villa.

6 Mr. Castellano.

7 BY MR. CASTELLANO:

8 Q. Mr. Cordova, we're going to take our time
9 with this and I'm going to give you a chance to
10 explain. Okay? I need you to listen very carefully
11 to my questions and we're going to take them one at
12 a time.

13 You were asked by Mr. Perez' attorney
14 about Mr. Perez being sick and him having the walker
15 and him having medications and things of that
16 nature. Do you remember that?

17 A. Yes, sir.

18 Q. Now, when you asked him questions almost
19 two years after the Molina murder, did he seem to
20 have any problem understanding what you were asking
21 him?

22 A. No, sir.

23 Q. Was that captured on the recordings?

24 A. Yes, sir.

25 Q. So even two years later with his illnesses

1 and his medications, did he seem to have any problem
2 understanding what you were saying?

3 A. No sir.

4 Q. Or recalling what he did?

5 A. No, sir.

6 Q. You were asked about a previous question
7 when you testified before this Court about using
8 drugs. Do you remember that?

9 A. Yes, sir.

10 Q. Now, do you know how the defense attorneys
11 know that you used drugs?

12 A. Because I was honest. I came forth and I
13 said this is -- I've been messing up, man.

14 Q. Who did you tell that to?

15 A. I told that to you.

16 Q. And when you told that to me, did you know
17 I would tell the defense attorneys about that?

18 A. Yes.

19 Q. So the only reason they know about it is
20 because you told us?

21 A. Yes.

22 Q. And what was going on in your life at that
23 point when you decided to use those controlled
24 substances?

25 A. I made a very bad mistake in my life and I

1 did what I did in that visiting room and I was
2 stupid. I felt like everything I did -- because
3 when I was a gang member, an SNM Gang member, I was
4 real well respected, not only with them but in the
5 streets by other gang members. I had real respect
6 in the streets.

7 Q. So how were you feeling about that then
8 with this change to being a cooperating witness?

9 A. When I did that for the federal government
10 and the stupid decision I made that day in the
11 visiting room, I was like what am I doing? I'm
12 still destroying everything I touch. Everything I'm
13 touching, I'm still destroying it. You know, I'm
14 not going to lie. There was times I wake up in my
15 sleep saying I should have just pled the Fifth. I
16 had conflicting emotions inside me. I was
17 struggling myself because now I'm a rat.

18 Q. Were there times, then, where even you
19 were still having some hesitation about cooperating?

20 A. Yes, there was.

21 Q. You were asked a question about beating
22 your wife for the SNM. Was that SNM related?

23 A. Yes, it was.

24 Q. And does the SNM require you to put them
25 first before anybody else?

1 A. You put them before anything else. Even
2 before yourself, you're supposed to at all times.

3 Q. You were asked about whether you were
4 involved in the Shane Dix homicide. Do you remember
5 that?

6 A. Yes. I wasn't involved.

7 Q. And did you provide law enforcement the
8 names of the people who were involved?

9 A. Yes.

10 Q. Were those people charged?

11 A. Yes.

12 Q. When there is discussion about Rudy Perez
13 cooperating, was there any proof at that time that
14 he'd cooperated?

15 A. No.

16 Q. You were asked by Rudy Perez' attorney
17 about whether doing a little includes keeping your
18 mouth shut.

19 A. Yes.

20 Q. Do you recall that Rudy Perez did more
21 than just keep his mouth shut?

22 A. Yes.

23 Q. What did he do?

24 A. He provided the shanks that were used.

25 MR. VILLA: Objection, Your Honor. It's

1 mischaracterizing. This is what Mr. Perez said, not
2 what he actually did.

3 MS. JACKS: I would join in that and ask
4 that it be limited as well.

5 THE COURT: Well --

6 MR. CASTELLANO: I'll be happy to
7 rephrase, Your Honor.

8 THE COURT: Well, I've got a couple of
9 objections here. I've given a limiting instruction,
10 I'll give it again. These are conversation with
11 Mr. Perez. You're not to consider them as to the
12 other three defendants.

13 All right. Rephrase your question.

14 BY MR. CASTELLANO:

15 Q. What did Mr. Perez admit to you that he
16 did?

17 A. He gave the shanks from -- the metal from
18 his walker to produce the shanks to kill Javier
19 Molina. So yes, he did more than just keep his
20 mouth shut.

21 Q. In this case you talked about the
22 paperwork that you saw. Did you receive a tablet in
23 this case with any discovery on it?

24 A. No, sir. I was never charged, so --

25 Q. Do you even know if the paperwork is on

1 the tablets?

2 A. I can't tell you. I've never seen the
3 tablets. You guys have tablets.

4 MR. CASTELLANO: If we can, can we pull up
5 Exhibit 179? It's on the defense side. It's going
6 to be Exhibit 179.

7 MS. JACKS: I thought defendants' exhibits
8 started with letters?

9 MR. CASTELLANO: It's the Government's
10 Exhibit 179, but it was shown by the defense today
11 on the visualizer.

12 BY MR. CASTELLANO:

13 Q. Go to page -- once we get there, if we can
14 go to page 20535, please.

15 Now, at any point did Mr. Perez tell you
16 that he was worried that he was going to be hit over
17 all this talk?

18 A. No.

19 Q. And when you mentioned to him that people
20 were talking about him, did he at least defend his
21 honor?

22 A. Yes.

23 Q. And did he tell you that he'd already
24 spoken to other people and they told him that he was
25 fine?

1 A. Yes.

2 Q. And I'm going to show you an example here
3 on 20535, where it says "When everything went down
4 and the discovery actually got there, Baby G shot me
5 with -- we got -- he said Rudy, don't worry, it's
6 exactly like you said." Who is Baby G?

7 A. Baby G is another influential member in
8 the SNM organization.

9 Q. So would you describe him as influential?

10 A. Yes.

11 Q. And who was Baby G close to?

12 A. Anthony Ray Baca, Pup.

13 Q. So all the way to the top, basically?

14 A. Yes, the jefe of the organization.

15 MS. BHALLA: I object to the
16 characterization.

17 THE COURT: Overruled.

18 A. Yeah, he's the jefe of the organization.

19 BY MR. CASTELLANO:

20 Q. So in terms of him explaining to you the
21 position he was in, did he seem to have any concern
22 given the fact that Baby G told him he was fine?

23 A. Yes. No, he didn't have no concerns.

24 Q. Okay. Now, in Exhibit 185, there's a
25 discussion about Jesse Sosa and the paperwork. And

1 Mr. Perez said he heard about it. Do you remember
2 that?

3 A. Yes.

4 Q. So if you're talking about Jesse Sosa and
5 paperwork, can you be talking about anything else
6 other than Molina?

7 A. No.

8 Q. And as Mr. Perez was criticizing the way
9 that the Molina murder went down, do you remember
10 what he said about how he would have done it?

11 A. Yes.

12 Q. How was that?

13 A. Clean.

14 Q. And how would it have been clean? What
15 was his idea about a clean hit?

16 A. Not jeopardizing the ride that way so we
17 could have still came out to the lines.

18 Q. What do you remember him saying about,
19 something about a hotshot?

20 A. Yes. He said I would have gave him a
21 doble, a hotshot, killed him that way. He said he
22 was -- if I was a drug addict and liked to use
23 drugs, so it will be cleaner.

24 Q. Was that captured on the recordings?

25 A. Yes, sir.

1 Q. So did he say it shouldn't have happened
2 or it should have just happened cleaner?

3 A. No, he never said it shouldn't have
4 happened, he said it should have happened cleaner.

5 THE COURT: Mr. Castellano, would this be
6 a good point for us to take our lunch break?

7 MR. CASTELLANO: Yes, Your Honor.

8 THE COURT: All right. We'll be in recess
9 for about an hour. All rise.

10 (The jury left the courtroom.)

11 THE COURT: All right. We'll be in recess
12 for about an hour.

13 (The Court stood in recess.)

14 THE COURT: All right. We'll go on the
15 record.

16 Is there anything we need to discuss
17 before we bring the jury in? Anything I can do for
18 you, Ms. Armijo?

19 MS. ARMIJO: No, Your Honor.

20 THE COURT: How about from the defendants?
21 Anything we need to discuss, anything I can do for
22 you?

23 MS. BHALLA: No, thank you, Your Honor.

24 MS. ARMIJO: Your Honor, I do have
25 something.

1 THE COURT: Okay.

2 MS. ARMIJO: I believe after Mr. Cordova
3 is done, which hopefully will be soon here, we have
4 two more witnesses and then the defense is going to
5 start their case.

6 Ms. Jacks has indicated she's going to
7 call an investigator, and she has basically what
8 would be Jencks, what he's going to testify about, a
9 report. As you know, we gave Jencks early in this
10 case. We've requested it. And she said she's not
11 going to give it to us until we rest. We request
12 that now so we can start working on it since he will
13 be a witness this afternoon.

14 MS. JACKS: And having just spoken with
15 Ms. Armijo, I was on my way over to give her the
16 report. It's not worth fighting over.

17 MS. ARMIJO: Okay.

18 And, Your Honor, just along those same
19 lines, I believe I made a written request for Jencks
20 a couple of days ago. I know we had the issue this
21 morning that I believe has been resolved, but I just
22 want to put on the record that if there is any
23 Jencks or reports that any experts are relying on or
24 anything else, that we request that to be disclosed
25 right away.

1 THE COURT: Can the defendants live with
2 that request?

3 MR. VILLA: Your Honor, I don't know what
4 Jencks is, because I think Jencks only applies to
5 the Government. But certainly if there were a
6 report, I could understand that.

7 THE COURT: Well, I think that's what
8 Ms. Armijo is saying. It's not technically Jencks
9 material, but it's a description of statements by
10 the witness. Everybody agree to produce those as
11 soon as possible?

12 MR. VILLA: Yes, Your Honor.

13 THE COURT: Do you agree with that,
14 Mr. Lowry?

15 MR. LOWRY: Absolutely, Your Honor. The
16 only thing we would have is the reports from the
17 forensic expert, Tim Bryan. But they have
18 everything that we've had. And we've agreed to give
19 them -- to give it to them as soon as we get it.
20 Other than that, I'm not aware.

21 THE COURT: Just do a mental checklist,
22 and see if you remember any statements the witness
23 made, and try to get them to the Government as soon
24 as possible.

25 All rise.

1 (The jury entered the courtroom.)

2 THE COURT: All right. Mr. Cordova, I'll
3 remind you that you're still under oath.

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Mr. Castellano, if you wish to
6 continue your redirect, you may do so at this time.

7 MR. CASTELLANO: Yes, Your Honor. Thank
8 you.

9 BY MR. CASTELLANO:

10 Q. Okay. Mr. Cordova, turning to the time
11 when you abused the contact visits at the prison.
12 Do you remember that?

13 A. Yes, sir.

14 Q. And do you remember whether the FBI
15 recommended that you be investigated for that both
16 through New Mexico State Police and Child Protective
17 Services?

18 A. Yes, sir.

19 Q. Were you charged with any crimes as a
20 result?

21 A. No, sir.

22 Q. I'm going to draw your attention to
23 Defendants' EJ. This is the letter about the pizza
24 party. Do you remember that?

25 A. Yes, sir.

1 Q. So had you read this letter before?

2 A. I believe no.

3 Q. Did you write this letter?

4 A. No, sir.

5 Q. Did you know what was in the letter?

6 A. No, sir.

7 Q. Now, despite the fact that you may not
8 have read the letter beforehand, did you still have
9 this pizza party?

10 A. Yes, sir.

11 Q. And were people allowed to visit you,
12 including family?

13 A. Yes, sir.

14 Q. Was that a big deal to you?

15 A. What do you mean, "a big deal"? Like --

16 Q. Well, was it nice to have family visit
17 you?

18 A. Yes, I appreciate it.

19 Q. And even though you didn't write the
20 letter, did you also reject the beliefs and values
21 of the SNM when you decided to become a cooperator?

22 A. Yes.

23 Q. And did you find your previous actions as
24 an SNM Gang member shameful?

25 A. Yes, sir.

1 Q. Now, it talks about being a full and
2 responsible participant in our society. Is that
3 what you'd like to do?

4 A. Yes.

5 Q. Are you perfect?

6 A. No.

7 Q. Do you still make mistakes?

8 A. All the time.

9 Q. And here it claims, "We are proud of our
10 cooperation with NMCD and the FBI." For you, is
11 that true or not?

12 A. To be honest with you, I wish I would
13 never had to go out like this. I wish I would have
14 never had to be a rat. I still have conflicting
15 emotions about that.

16 Q. So even today, is it difficult for you to
17 be doing something like this?

18 A. Of course.

19 Q. Pretty much immediately after this is
20 discovered, the FBI cut you off as a confidential
21 human source; right?

22 A. Yes, sir.

23 Q. And you were asked whether you recorded
24 somebody named Gabriel Valdivia in April of 2017.
25 Do you remember that?

1 A. Yes, sir.

2 Q. And even though you weren't getting
3 compensation or anything from the FBI, did you agree
4 to do that for the corrections department?

5 A. Yes, sir.

6 Q. Who was Mr. Valdivia?

7 A. Valdivia, he was a real Sureno. He was
8 hooked up in the federal system with the Mexican
9 Mafia. And he thought I was still an active SNM
10 Gang member so he tells me, "Hey, check this out,
11 homie, I got word from my homies" --

12 Q. I won't ask you what he said. But let me
13 ask you this. Did he tell you about incriminating
14 things?

15 A. Yes. He told me about some stabbing.
16 He's told me about some criminal activity and about
17 joining up forces with the SNM. Kind of scared me.

18 Q. Were you able to capture some of the
19 things that he said on recordings?

20 A. Yes.

21 Q. Earlier you were trying to make a
22 distinction between working for the FBI and things
23 you said the administration wanted you to do. Do
24 you remember that? First of all, who are you
25 referring to when you say the administration?

1 A. The administration is the prison. Like
2 going to RPP, when you're there -- once you're
3 there, that's why I say it's not like a real
4 opportunity because they expect for you to tell on
5 everything. And you're so much under the microscope
6 because you're an ex-prison-gang member, they expect
7 you to to tell on every little thing. That's not
8 the way I was raised.

9 Q. Is RPP part of the FBI?

10 A. No, sir.

11 Q. You were asked if you were housed next to
12 Mario Rodriguez and other people who are cooperators
13 in this case in 2015. When you were housed next to
14 those people, were they cooperating?

15 A. No, sir.

16 Q. And do you recall that people weren't even
17 charged in this case until December of 2015?

18 A. Correct, sir.

19 Q. So to say you were housed next to
20 cooperators in 2015, did you know that any of them
21 were cooperating at that time?

22 A. No, sir.

23 Q. Now, you were asked about people --
24 basically people talking smack about Carlos Herrera
25 and he got talking on the recordings. Did you put

1 words in his mouth?

2 A. No, sir.

3 Q. Are those words Carlos Herrera's words on
4 the recordings?

5 A. Yes, sir.

6 Q. Now, you were asked about benefits. And
7 in your mind, were some of the things you received
8 the result of renouncing SNM membership?

9 A. Yes, sir.

10 Q. Now, when you got paid from the FBI, that
11 was a benefit, wasn't it?

12 A. Yes, sir.

13 Q. Now, when you got moved out of solitary
14 confinement, was your understanding that was a
15 result of cooperation or for renouncing the gang?

16 A. Renouncing the gang.

17 Q. What about getting moved into RPP?

18 A. Renunciation of the organization.

19 Q. What about your phone calls?

20 A. Renunciation of the organization. All
21 administrative stuff.

22 Q. What about your contact visits?

23 A. Yes, the same thing, the renunciation of
24 the organization and all administrative stuff, I
25 believe.

1 Q. And when you abused the privilege for
2 contact visits, did you get those anymore?

3 A. No, sir.

4 Q. And what else did you get in terms of
5 punishment from the Corrections Department?

6 A. I got six months in the hole in lockup. I
7 got one year loss of all phone calls, all canteen
8 privileges, all visits. All that stuff.

9 Q. You were also asked about the witness
10 protection program.

11 A. Yes, sir.

12 Q. What's your understanding of that program?

13 A. My understanding to that program is that
14 they help you for your first six months, get on your
15 feet. That way they set you up so you could be a
16 productive member of society instead of just
17 throwing you out there. That's what's always been
18 my understanding, is that. It's what they do with
19 individuals, they take them, they change their name,
20 their identity and they set them up with a job. And
21 they start them off in an apartment and start them
22 off with like a car or something, nothing fancy.
23 But they help them. They give them like a hand up
24 in society, that way they can go on and be better.
25 Q. What's your understanding of what happens

1 basically once you get on your own two feet?

2 A. They cut you off. I think it's only a
3 six-month process. By then, you've got to do
4 everything else on your own.

5 Q. What's your understanding if you violate
6 the rules of that program?

7 A. The same thing. They terminate you.

8 Q. Now, are you in that program now?

9 A. No, sir.

10 Q. Do you hope to be in that program?

11 A. To be honest with you, at this point I
12 don't -- I don't know.

13 Q. Are you even sure about that?

14 A. Right now, it's just -- everything that's
15 going through me right now, I just -- it's hard.
16 It's hard. I don't even know -- I don't know what
17 I'm going to do when I get out. I don't.

18 All my life, I've lived this way, been a
19 gang member. And now I don't have no credibility on
20 the streets. I'm a felon. I'm all covered in
21 tattoos. Tattoos that I earned by putting in work
22 for the gang. So you can tell they're gang members
23 tattoos. Ain't too many people going to trust me,
24 you know, so it's kind of a hard decision.

25 Q. Do you have an SNM tattoo on your elbow?

1 A. All my tattoos are SNM except two of them.

2 Q. Can you show us your elbow, please?

3 A. (Witness complies.)

4 Q. And what is that tattoo basically on your
5 forearm?

6 A. It's a Zia with SNM in it.

7 Q. Is that one of your SNM tattoos?

8 A. Well, yes, all of them are. My neck, my
9 face, my arms. One on my chest.

10 Q. Now, how does that work out for you being
11 a renounced member of the SNM gang with SNM all over
12 your body?

13 A. It's not good. Because we're not only
14 hooked up with SNM, we're hooked up with many other
15 organizations around the United States, many other
16 organizations. And I'll not only have a death
17 sentence from the SNM, but every other organization
18 that's out there. And if -- having these tattoos
19 ain't good.

20 Q. Why might someone like you need the
21 witness protection program?

22 A. Because I'm going to be -- I'm going to
23 have a death sentence on my head by any real active
24 gang member out there of any real organization.
25 Because we all work together and network in the

1 prison system.

2 MR. CASTELLANO: Can I have Government's
3 Exhibit 162, please?

4 Q. I'm not sure you'll be able to see it from
5 this exhibit, Mr. Cordova, but I'm going to try.
6 Going back to blue, yellow and green pods. You
7 mentioned earlier you thought that you could see
8 Javier Molina whenever he fell.

9 A. Yes, sir.

10 Q. How could you do that from there?

11 A. There's a door in yellow pod, it has a
12 window on it. And you could look out in the
13 horseshoe and you can see the door in blue pod, when
14 it opens and shuts. And as it opened, like say
15 you're coming out but you're not out, but right
16 there at the wall and the doors is where I seen him
17 fall down.

18 Q. You mentioned something that's a
19 horseshoe. Is this considered the horseshoe?

20 A. Yes, sir.

21 MR. CASTELLANO: For the record, I have
22 made a U shape around the officer station area on
23 Government's Exhibit 162.

24 Q. And it looks like this is blue pod here.
25 Is there a line of sight from yellow pod towards

1 blue pod?

2 A. Yes, sir. Through the window of the pod
3 door. It opens, look through the window, and you
4 can see when blue pod's door opens or shuts.

5 Q. Where do you recall seeing Javier Molina?

6 A. Up against this wall or -- I don't know if
7 I can --

8 Q. Right here?

9 A. Yes. Right there on that wall, kind of
10 where you're coming out of the door but not fully
11 out of the door yet. I seen him right there.

12 Q. So that's the door to blue pod, is that
13 correct? Where it opens up into the horseshoe?

14 A. Yes, sir.

15 Q. And from there -- now, did you see him
16 walking out? There is mention of a nurse and Javier
17 Molina in the report. What do you remember about
18 the nurse and Javier Molina?

19 A. The CO sends the nurse out of the unit.
20 Tells the nurse to leave.

21 Q. Out of which unit?

22 A. Out of 1-A, our unit.

23 Q. So out of yellow unit?

24 A. Yes.

25 Q. Was the nurse at that time giving out meds

1 in your unit?

2 A. Yes. Yes, she was giving out meds. She
3 was doing her rounds, giving out medication. And
4 one of the officers that are with her, when they
5 started calling lockdown in the control center --
6 the control center is above the pods, they're
7 yelling lockdown. And they're all looking into blue
8 pod.

9 I go to the door and I peek out. And I'm
10 looking, because the action, you can tell it's kind
11 of going on right there. And the officer is telling
12 the nurse, leave, boom, like get out of here, out of
13 the unit door that's located right here. They tell
14 her to leave.

15 And then they open blue pod, to go into
16 blue pod, and that's when I seen Javier Molina.

17 Q. Now, we won't say where you're currently
18 housed, but before trial, were you and other
19 witnesses transported to a certain facility?

20 A. Yes, sir.

21 Q. Did you have any choice about --

22 A. No, sir.

23 Q. -- when or where you were transported?

24 A. No, sir.

25 Q. I want to ask you about your debriefs with

1 the FBI. Do you remember first meeting with the FBI
2 on January 4th of 2016?

3 A. I don't know the exact date, but around
4 that time, yes, sir.

5 Q. It's okay if you don't remember dates. If
6 you need to see the report to refresh your
7 recollection, let me know if you can't remember.

8 After that date, do you remember meeting
9 with them three days later, on January 7th, 2016?

10 A. I know the first meeting, and yes,
11 afterwards it was, yeah, a couple of days later.

12 Q. And then when you met with them on the
13 first occasion, do you remember telling them things,
14 basically -- first of all, about putting in work and
15 what that means for the SNM?

16 A. Yes.

17 Q. Do you remember on that occasion whether
18 you told them beginning in 2005 that you had
19 purchased cocaine, purchased drugs from Chris Garcia
20 and had gotten those into the prison for Daniel
21 Sanchez and Benjamin Clark?

22 MS. JACKS: Objection. Beyond the scope
23 of cross.

24 THE COURT: Overruled.

25 A. Yes, sir.

1 BY MR. CASTELLANO:

2 Q. And so back in January of 2016, you said
3 these things to the FBI?

4 A. Yes, sir.

5 Q. And during that meeting do you remember
6 giving them SNM members' names and discussing
7 internal SNM conflicts?

8 A. Yes, sir.

9 Q. Do you remember even telling them things
10 about people like Leroy Torrez and the startup of
11 the All Stars?

12 A. Yes, sir.

13 Q. Did you tell them about Arturo Garcia and
14 issues with him?

15 A. Yes, sir.

16 Q. Is that when you had talked about actually
17 killing Garcia in an effort to seize power and
18 remove him?

19 A. Yes, sir.

20 Q. So does the defense know that you wanted
21 to kill Garcia because that's what you told the FBI
22 and it was in a report?

23 A. Yes, sir.

24 Q. Did you also tell the FBI on that occasion
25 about narcotics trafficking?

1 A. Yes, sir.

2 Q. And so if you remember, do you remember
3 this report being approximately three pages?

4 A. I don't remember. I don't write the
5 pages. I don't write the reports.

6 Q. And did you tell the FBI everything you
7 knew about the SNM on that occasion?

8 A. Most of it, yes.

9 Q. Do you remember then next sitting down and
10 speaking with the FBI on February 9th of 2016?

11 A. Yes, sir.

12 Q. Do you remember if on that occasion you
13 told them about Rudy Perez and how he had provided
14 his walker to make shanks for the Molina murder?

15 A. I remember at one point --

16 MR. VILLA: Objection to the
17 characterization. What he said and what he did.

18 Q. I can refresh your memory if you don't
19 remember the specific words, sir.

20 A. Can I see it?

21 Q. Sure.

22 MR. CASTELLANO: May I approach, Your
23 Honor?

24 THE COURT: You may.
25

1 BY MR. CASTELLANO:

2 Q. Mr. Cordova, why don't you review this
3 quietly to yourself. And once your memory is
4 refreshed, you can let us know.

5 A. Yes.

6 Q. And you see the date?

7 A. Yes.

8 Q. So first of all, do you remember that date
9 being February 9th of 2016?

10 A. Yes, that's what the report says.

11 Q. What do you recall telling the FBI about
12 Rudy Perez on that occasion?

13 A. That he provided the shanks that were used
14 to kill Javier Molina from his walker.

15 MS. JACKS: Your Honor, to the extent that
16 that's based on statements allegedly from Mr. Perez,
17 we'd ask that that be limited.

18 THE COURT: It will be so limited. Just
19 consider it in your discussions of the deliberations
20 against Mr. Perez, not the other three gentlemen.

21 BY MR. CASTELLANO:

22 Q. Do you remember giving the FBI information
23 about both Carlos Herrera and his mother, Geraldine
24 Herrera?

25 A. Yes, sir.

1 Q. What do you remember telling the FBI about
2 teaching Geraldine Herrera how to conceal Suboxone
3 strips in the mail?

4 A. I met up with them at a Wendy's when I got
5 out of prison. I gave them some Suboxones. And I
6 had one already made, made up. There is a way we do
7 it in the mail, and I showed them. I gave it to
8 them and I showed them how to do it. And I gave
9 them some to do themselves.

10 Q. Do you remember providing any information
11 to the FBI about the Freddie Sanchez murder?

12 A. Yes.

13 Q. Do you recall if you gave information to
14 the FBI about Mr. Baca wanting to divide New Mexico
15 into rayos or regions?

16 MS. DUNCAN: Your Honor, I'm going to
17 object. This is beyond the scope of cross.

18 THE COURT: Overruled.

19 A. Yes, sir.

20 BY MR. CASTELLANO:

21 Q. And did you learn that information
22 directly from Mr. Baca?

23 A. Yes, sir.

24 Q. Did you provide any information to the FBI
25 about a 2005 situation involving Cipriano Garcia and

1 a hotshot?

2 A. Yes, sir.

3 Q. Do you remember meeting again with the FBI
4 for a half page report on February 16, 2016?

5 A. No.

6 Q. If you don't remember, it's okay.

7 A. Repeat that. What was it?

8 Q. Do you remember meeting with the FBI again
9 on February 16th of 2016?

10 A. The exact date, no, but more or less
11 around that time I know that we had meetings.

12 Q. Would it help to refresh your recollection
13 to see the report?

14 A. Yes, sir.

15 MR. CASTELLANO: May I approach, Your
16 Honor?

17 THE COURT: You may.

18 A. I remember that.

19 BY MR. CASTELLANO:

20 Q. Is that February 16th of 2016?

21 A. Yes, sir.

22 Q. And do you remember providing information
23 to the FBI about Sergio Rodriguez and his uncle, and
24 the fact that they were supposed to kill someone
25 called Big Paul?

1 A. Yes, sir.

2 Q. Do you recall giving information to the
3 FBI about Manuel Benito's participation in the Felix
4 Martinez murder?

5 A. Yes, sir.

6 Q. And are you aware of whether or not
7 Mr. Benito has been charged by the FBI in another
8 case?

9 A. I don't know. I don't know.

10 Q. Do you recall giving information to the
11 FBI on July 12th of 2016? You were asked about that
12 on cross-examination.

13 A. I guess, yeah, it's there. If it's there,
14 yeah, I give it.

15 Q. At that point do you recall giving
16 information to them about the Sammy Chavez murder?

17 A. Yes, sir.

18 Q. And regardless of who did it, did Sammy
19 Chavez get murdered?

20 A. Yes, sir.

21 Q. Did you also provide information to the
22 FBI about the Los Carnales member who was killed by
23 the hotshot?

24 A. Yes, sir.

25 Q. Did you also give information to them

1 about the Shane Dix murder?

2 A. Yes, sir.

3 Q. And the Michael Giron murder?

4 A. Yes, sir.

5 Q. Did you provide names that the FBI could
6 look at to investigate them further?

7 A. Yes, sir.

8 Q. When you talked about your drug
9 trafficking history, did you recall telling the FBI
10 that one of the people you worked with was Chris
11 Garcia?

12 A. Yes, sir.

13 Q. Do you remember the telephonic interview
14 with Agent Acee on December 15th, 2017?

15 A. Yes.

16 Q. Do you know for sure?

17 A. Huh?

18 Q. Do you remember that date?

19 A. I don't remember the date, but I know we
20 had a phone conference with my lawyer.

21 MR. CASTELLANO: May I approach the
22 witness, Your Honor?

23 THE COURT: You may.

24 MS. DUNCAN: Your Honor, can we approach?

25 THE COURT: You may.

1 (The following proceedings were held at
2 the bench.)

3 MS. DUNCAN: I object to this line of
4 cross. I understand that Mr. Castellano has the
5 right to go through statements with this witness
6 when he talked about Carlos Herrera or Rudy Perez,
7 because that was brought up on cross. There are a
8 bunch of statements in that Mr. Cordova -- not on
9 cross, that have no statements about Mr. Herrera or
10 Mr. Perez.

11 THE COURT: I think the defendant did a
12 pretty good job of, you know, attacking Mr. Cordova
13 about what he said to the FBI and when he said it
14 and what he didn't say and things like that. So I
15 think the Government is trying to rehabilitate him
16 this way and I won't restrict it.

17 MS. DUNCAN: I understand that, Your
18 Honor. But I didn't object on behalf of Mr. Baca,
19 so I'm going to object to bringing in, "Did you say
20 this about Mr. Baca." I don't think it's fair,
21 given that I didn't make this challenge. And there
22 are statements that didn't come in on direct.

23 THE COURT: Well, you know, there is a lot
24 of statements made. If I started slicing and dicing
25 and cutting into the Government's ability to

1 rehabilitate him -- he was hit pretty hard on cross,
2 and so I'm going to let him try to rehabilitate him
3 how they can. If you need to recross, I'll
4 certainly let you go into it.

5 MS. DUNCAN: Okay, thank you.

6 (The following proceedings were held in
7 open court.)

8 THE COURT: All right. Mr. Castellano.

9 MR. CASTELLANO: Thank you.

10 BY MR. CASTELLANO:

11 Q. So Mr. Cordova, up to that point, it
12 sounds like there was wide variety of topics and
13 crimes that you discussed with the FBI. Is that
14 fair to say?

15 A. Yes, sir.

16 Q. Now, in December of '15 -- December 15th
17 of 2017, as we're approaching trial in this
18 particular case, do you remember that Agent Acee
19 called to ask specifically about the Molina homicide
20 at that point?

21 A. Yes, sir.

22 Q. And at that point did you explain to him
23 that in March of 2014, you mentioned names like
24 Carlos Herrera, Lupe Urquizo and Mauricio Varela
25 being in the pod with you?

1 A. Yes, sir.

2 Q. Do you recall if you shared with them the
3 fact that Urquizo and Varela had brought paperwork
4 on Molina?

5 A. Yes, sir.

6 Q. And at that time do you remember sharing
7 with the FBI the members of the people who were on
8 the tabla at Southern at that time?

9 A. Yes, sir.

10 Q. Do those names include Daniel Sanchez and
11 Carlos Herrera?

12 A. Yes, sir.

13 Q. Did you also provide information on people
14 on the tabla at PNM?

15 A. Yes, sir.

16 Q. I want to ask you about a specific
17 statement you were asked about, which talks about
18 Mr. Sanchez giving you -- asking for a shank about a
19 week before Urquizo and Varela arrived. Do you
20 remember that?

21 A. I remember him asking me for one, yes.

22 Q. Do you remember in the July 15th report
23 that it indicates that the request was about a week
24 before the homicide?

25 A. Yes, sir.

1 Q. Do you remember clarifying that in a
2 January 24th, 2018 report, in which you indicated
3 that that was approximately March 6th or 7th of
4 2014?

5 A. Yes, sir.

6 Q. So when this was going on in 2014, were
7 you taking notes at the time?

8 A. Of course not.

9 Q. In other words, were you saying at
10 1:15 p.m., someone asked me this; at 2:15 p.m., I
11 did that?

12 A. Put it this way. In that lifestyle,
13 most -- half of the people we know by nicknames,
14 because you don't want to know too much. Because
15 when you know too much, certain things get leaked
16 out, you don't want to be looked at. So no, I would
17 never take notes. I never thought I would be doing
18 this. I never thought I would be an informant rat.

19 Q. Do you recall giving a statement on
20 December 15th of 2017 to Agent Acee about the fact
21 that Daniel Sanchez told you not to worry about it
22 because they'd gotten a fierro from a carnal's
23 walker?

24 A. Yes, sir.

25 Q. Also on December 15th of 2017, in

1 preparation for trial, did you at that time tell
2 Agent Acee that Mr. Cordova -- that Mr. Herrera
3 showed you the paperwork?

4 A. Yes, sir.

5 Q. And said, "This is going to happen"?

6 A. Yes, sir.

7 Q. On that occasion did you also share with
8 them the fact that Mr. Herrera told you to talk to
9 your people because you were going to be locked down
10 for a while?

11 A. Yes, sir.

12 MR. CASTELLANO: May I have a moment, Your
13 Honor?

14 THE COURT: You may.

15 MR. CASTELLANO: Thank you, Your Honor. I
16 pass the witness.

17 THE COURT: Thank you, Mr. Castellano.

18 Any defendants have recross? Mr. Villa?

19 MR. VILLA: Thank you, Your Honor.

20 THE COURT: Mr. Villa.

21 RECROSS-EXAMINATION

22 BY MR. VILLA:

23 Q. Mr. Cordova, I just want to follow up with
24 you on a couple of things. You testified that the
25 rumors that were going on about Mr. Perez at the

1 time you recorded him wouldn't have been enough for
2 the SNM to move on them; right?

3 A. Yes, sir.

4 Q. You did testify to that?

5 A. Yes, sir.

6 Q. And was it your testimony when I
7 questioned you earlier that that wasn't going to
8 happen, they weren't going to move on Mr. Perez?

9 A. Because they didn't have evidence, no.

10 Q. But you agree that you testified on
11 December the 12th, 2017 to Judge Browning that they
12 were going to move on him because they thought he
13 was talking?

14 A. That was the conversation.

15 Q. You testified to that on December the
16 12th, 2017, correct?

17 A. Yes.

18 Q. And you testified that they were going to
19 move on him because they thought that he was
20 cooperating?

21 A. Back then, yes.

22 Q. And I'm talking about your testimony under
23 oath on December 12th, 2017.

24 A. Oh, back then, no. Before that.

25 Q. Well, time out. I'm asking -- Mr.

1 Cordova, I'm asking you if that's what you testified
2 to on December 12th.

3 A. Yes, sir.

4 Q. Okay. And getting back to the interview
5 that Mr. Castellano just talked to you about on
6 December 15th, 2017, it's just three days later;
7 right?

8 A. Yes, sir.

9 Q. The phone interview with your lawyer and
10 Agent Acee.

11 A. Yes, sir.

12 Q. And in that particular interview, you told
13 Agent Acee that the SNM had suspected that Mr. Perez
14 had spoken to STIU?

15 A. Yes, sir.

16 Q. And you didn't say, "Gosh, what I
17 testified to three days earlier, that wasn't right;
18 they weren't going to move on him."

19 You didn't say that in that interview, did
20 you?

21 A. I'm not understanding you.

22 Q. When you were interviewed on December
23 15th, 2017 by Agent Acee, you didn't say --

24 A. I understand what you're saying, but it
25 feels like you're putting words in my mouth because

1 you're speaking about SNM politics and something you
2 don't understand.

3 Q. Well, Mr. Cordova, let me ask you about
4 something I do understand. Okay? Is that all
5 right?

6 A. Yes.

7 Q. What I understand is you had a
8 conversation with Agent Acee on December 15th, 2017;
9 right?

10 A. Yes.

11 Q. And would you agree with me that in that
12 conversation, you did not say to Agent Acee that
13 your testimony on December 12th that they were going
14 to move on Mr. Perez was not true?

15 A. Because they had no justification. They
16 had no paperwork.

17 Q. No, no. My question to you is: In your
18 conversation with Agent Acee, you didn't say that to
19 him, correct?

20 A. I'm not understanding you.

21 Q. Okay. So you testified on December 12th
22 of 2017 --

23 A. Yes.

24 Q. -- that they were going to move on Rudy;
25 right?

1 A. Yes.

2 Q. Then you talked to Agent Acee three days
3 later, on December 15th; right?

4 A. They weren't going to move on Rudy. That
5 was the talk. If he was a rat.

6 Q. Mr. Cordova, answer my questions, please.
7 After you testified on December 12th, you talked to
8 Agent Acee on December 15th; right?

9 A. I'm not understanding you.

10 Q. Okay, let's try it again. You testified
11 under oath to Judge Browning on December 12th, 2017;
12 right?

13 A. Yes.

14 Q. And I showed you the statements that you
15 made in that hearing, didn't I?

16 A. So these are the same things that's in the
17 recordings.

18 Q. Mr. Cordova --

19 A. Same stuff.

20 Q. Mr. Cordova --

21 A. Yeah.

22 Q. I showed you your testimony from that
23 hearing, remember?

24 A. Yes.

25 Q. This morning I showed it to you; right?

1 A. And that I had already answered the
2 question.

3 Q. Okay. And so the question was: At that
4 hearing, you said they were going to move on
5 Mr. Perez; right? You said that. You testified to
6 that on December 12th, did you not?

7 A. That's what's being said in the
8 recordings. He knew that.

9 Q. I'm not asking you about --

10 A. There is no justification to it.

11 Q. Mr. Cordova, I'm not asking you about --

12 A. That was never a planned hit on Rudy
13 Perez. I know what you're saying, what I testified
14 to. If that's what's there, then that's what's
15 there. I don't know. I don't know what to tell
16 you.

17 Q. You were here. You testified; right?

18 A. Yes.

19 Q. So you ought to know what you testified
20 about, shouldn't you?

21 A. Yes.

22 Q. And I showed you the testimony, didn't I?

23 A. Yes, sir.

24 Q. Was there any question in your mind that
25 what I read to you was inaccurate?

1 A. No, sir.

2 Q. Okay. So that was December 12th.

3 A. Yes, sir.

4 Q. Now I'm talking about December 15th and
5 your conversation with Agent Acee.

6 A. Yes, sir.

7 Q. And in that conversation, you did not
8 clarify anything about your testimony on December
9 12th, did you?

10 A. No, sir.

11 Q. Now let's talk about the drugs.
12 Mr. Castellano asked you how it was that we knew you
13 had used drugs a month and a half or so -- I guess
14 you said it was a couple weeks before your testimony
15 on December 12th; right?

16 A. Yes, sir.

17 Q. And you said to Mr. Castellano that you
18 were honest, you came forth about that; right?

19 A. Yes, sir.

20 Q. You came forward with that information?

21 A. Yes, sir.

22 Q. Right?

23 A. Yes, sir.

24 Q. That's not what you testified to on
25 December 12th when you were under oath to Judge

1 Browning, is it?

2 A. No, sir.

3 Q. Now, Mr. Castellano asked you about a
4 statement that Mr. Perez made about the piece from
5 his walker coming up missing when he was in the
6 shower. Do you remember that?

7 A. Yes.

8 Q. He asked you if Mr. Perez had said that to
9 you during the time that you recorded him; right?

10 A. During the time he recorded me?

11 Q. That you recorded Mr. Perez.

12 A. I can't recall.

13 Q. Okay. But you recall Mr. Castellano
14 asking you that question, about whether Mr. Perez
15 made that kind of statement to you while you were
16 recording him?

17 A. Yes, sir.

18 Q. And you said he didn't make that kind of
19 statement.

20 A. I didn't make that kind of statement?

21 Q. Well, I think if I understand your
22 testimony on redirect, was when Mr. Castellano asked
23 you, "Did Rudy Perez say that he told police that
24 the walker -- the piece from the walker came up
25 missing while he was in the shower," you said, "He

1 didn't tell me that."

2 A. I can't recall.

3 Q. Okay. If he had told you that he had made
4 a statement about it to the STIU, he'd be in
5 trouble, wouldn't he?

6 A. Of course.

7 Q. Especially if he said in the statement to
8 the STIU something that would be considered
9 snitching or ratting; right?

10 A. Yes, sir.

11 Q. That would be a big problem if Mr. Perez
12 had done that; right?

13 A. Yes, sir.

14 Q. Now, Mr. Castellano asked you about
15 February 9th, 2016, when you were interviewed by
16 Agent Acee or other members of the federal
17 government; right?

18 A. No.

19 Q. Just a minute ago, Mr. Castellano asked
20 you about that February 9th, 2016 statement; right?

21 A. Yes, sir.

22 Q. And in that statement you told the federal
23 government that Rudy provided the shanks to kill
24 Molina; right?

25 A. Yes, sir.

1 Q. But you don't actually know how that piece
2 came off of Mr. Perez' walker, do you?

3 A. Yes, I know.

4 Q. Well, you know what Mr. Perez told you
5 when you recorded him; right?

6 A. Exactly.

7 Q. And when you recorded him in February of
8 2016; right?

9 A. Exactly.

10 Q. You're assuming that what he told you is
11 the truth, aren't you?

12 A. Exactly.

13 Q. But you don't know the truth because you
14 weren't there?

15 A. Other members from the SNM --

16 Q. Mr. Cordova, let me get you to answer my
17 question.

18 A. I wasn't there. I didn't visually see it.

19 Q. So you don't know how that piece from the
20 walker actually came off the walker and made its way
21 into the hands of the men that used it on Javier
22 Molina, do you?

23 A. No, sir.

24 MR. VILLA: No further questions, Your
25 Honor.

1 THE COURT: Thank you, Mr. Villa.

2 Anyone else have recross? Not seeing
3 anybody, Mr. Castellano, do you have redirect?

4 MR. CASTELLANO: No, Your Honor.

5 THE COURT: All right. Mr. Cordova, you
6 may step down.

7 Is there any reason Mr. Cordova cannot be
8 excused from the proceedings, Mr. Castellano?

9 MR. CASTELLANO: No, Your Honor.

10 THE COURT: How about the defendants?
11 Anybody object to him being excused from the
12 proceedings?

13 MR. VILLA: No, Your Honor.

14 THE WITNESS: All right.

15 THE COURT: You're excused from the
16 proceedings. Thank you for your testimony.

17 THE WITNESS: Thank you, guys.

18 THE COURT: Does the Government have its
19 next witness or evidence?

20 MR. BECK: Yes, Your Honor. The United
21 States calls Dwayne Santistevan.

22 THE COURT: Mr. Santistevan, if you'll
23 come up and stand next to the witness box on my
24 right, your left, before you're seated Ms.
25 Standridge, my courtroom deputy, will swear you in.

1 DWAYNE SANTISTEVAN,
2 after having been first duly sworn under oath,
3 was questioned, and testified as follows:

4 THE CLERK: Please be seated. State and
5 spell your name for the record.

6 THE WITNESS: My name is Dwayne
7 Santistevan.

8 THE COURT: Spell it.

9 THE WITNESS: D-W-A-Y-N-E,
10 S-A-N-T-I-S-T-E-V-A-N.

11 THE COURT: Mr. Santistevan.
12 Mr. Beck.

13 DIRECT EXAMINATION

14 BY MR. BECK:

15 Q. Good afternoon, Mr. Santistevan. How were
16 you employed from 2014 until the beginning of 2016?

17 A. I was employed by the New Mexico
18 Corrections Department. I was the Acting Deputy
19 Director in the Security Threat Intelligence Unit.

20 Q. What is the Security Threat Intelligence
21 Unit?

22 A. Well, the Security Threat Intelligence
23 Unit encompasses quite a bit within the Corrections
24 Department. Mainly what we're -- what I was there
25 to do is oversee the daily operation of the

1 intelligence -- the gathering of intelligence, to
2 identify any threats, safety, security issues that
3 may exist in the prison system, and mitigate those
4 threats with, you know, different --

5 THE COURT: Hold on. I think they're
6 having a hard time hearing you in the corner, so why
7 don't you pull the chair up, get that microphone so
8 they can hear you.

9 A. Sorry about that. So, you know, mainly
10 daily intelligence gathering, identifying any
11 threats within the prison system and/or out in the
12 community. And trying to mitigate any of those
13 threats through the investigative process and what
14 have you.

15 Q. As the Acting Deputy Director of STIU, to
16 whom did you report?

17 A. I reported directly to Joe Booker, who was
18 the Deputy Secretary of Corrections.

19 Q. So were you the highest ranking member of
20 the Security Threat Intelligence Unit from 2014 to
21 2016?

22 A. Yes, I was.

23 Q. And as of 2016, how long had you been
24 employed with the New Mexico Corrections Department?

25 A. January 28 of 2016, I completed 25 years

1 with the Corrections Department.

2 Q. Before you became Acting Deputy Director
3 in 2014, what was your position with the New Mexico
4 Corrections?

5 A. I was the Security Threat Intelligence
6 Unit Administrator.

7 Q. And when were you their administrator?

8 A. I was -- I became the administrator in
9 April of 2008.

10 Q. Before April of 2008, what was your
11 position?

12 A. I was Deputy Warden at the Penitentiary of
13 New Mexico.

14 Q. And how long were you Deputy Warden at
15 PNM?

16 A. Approximately two and a half years.

17 Q. Before you were Deputy Warden, what was
18 your position?

19 A. I was the Security Threat Intelligence
20 Unit coordinator at the Central New Mexico
21 Correctional Facility.

22 Q. When did you begin with the Security
23 Threat Intelligence Unit?

24 A. I began with the Security Threat
25 Intellience Unit in 1997. I was -- when it first

1 ensued and they were putting it together, I was
2 assigned to the unit in its -- in its inception.

3 Q. So is it fair to say other than a couple
4 years as Deputy Warden at PNM, you were with the
5 Security Threat Intelligence Unit from the beginning
6 until you left Corrections?

7 A. I was, approximately in April of 1997.
8 And then in October, November of 1998, I got
9 promoted to Lieutenant. So I was shift supervisor
10 from then on, for almost four years.

11 Q. And when did you start with the New Mexico
12 Corrections Department?

13 A. January of 1991.

14 Q. When did you first come in contact with
15 the Sindicato de Nuevo Mexico, or the SNM Gang?

16 A. When I started my career, after the
17 Corrections Academy, I was assigned to the
18 Penitentiary of New Mexico Main facility. And
19 that's when I first came in contact with members of
20 --

21 Q. And how did you come in contact with them,
22 or what did you learn about them?

23 A. It was daily assignments. They were
24 housed throughout the facility, and you would come
25 in contact with them on a daily basis.

1 Q. In your New Mexico Corrections Academy,
2 did you learn about the SNM in the Academy?

3 A. Yes. What they taught us in the Academy,
4 they identified certain individuals, how the group
5 started, what to look out for, and what activities
6 -- criminal activities and other activities that
7 they would engage in within the prison.

8 Q. And in 1991, what prison gangs existed
9 within that -- the New Mexico Corrections
10 Department?

11 A. Los Carnales, Sindicato de Nuevo Mexico,
12 and Aryan Brotherhood was another group that was
13 identified.

14 Q. Which was the most powerful prison gang?

15 A. The SNM.

16 Q. And it sounds like you were there for sort
17 of the beginning of the Security Threat Intelligence
18 Unit?

19 A. Yes.

20 Q. Tell us how that came about in your
21 experience.

22 A. Well --

23 MR. LOWRY: Your Honor, can we object?
24 Can we approach the bench?

25 THE COURT: Say what?

1 MR. LOWRY: May we approach?

2 THE COURT: You may.

3 (The following proceedings were held at
4 the bench.)

5 MR. LOWRY: Your Honor, we were under the
6 impression that he was being called as a victim, and
7 my concern is that we're getting into expert
8 territory here. You know, he's eliciting answers
9 from him about the development of the gangs within
10 the prison, and I think this conversation is going
11 to delve into the mechanics of gang activity, which
12 is not what we were expecting.

13 He wasn't noticed as an expert. These
14 questions do sound like what we indicated we weren't
15 going to allow an expert to testify. It sounds like
16 he's doing the same thing he said we didn't allow
17 the Government expert to do.

18 MR. BECK: Well, I intend to get into
19 hearing what the Security Threat Intelligence Unit
20 is, what they do, what the SNM is, and then move on
21 from there. I mean, I think if he's going to
22 testify about what he's doing in this case as a
23 victim --

24 THE COURT: I think the question on the
25 table is: How did the SNM Gang become the most

1 powerful gang? That doesn't seem to me to be what I
2 would have allowed an expert to testify about.

3 MR. BECK: I don't think that's the
4 question I asked. I think the question is: How did
5 the Security Threat Intelligence Unit come to be?

6 THE COURT: The question is -- well, it
7 sounds like you were there for sort of the beginning
8 of the security. Tell us how that came about in
9 your experience. But the question before it was:
10 Which was the most powerful prison gang. So I think
11 everybody is thinking that's what you're asking him.
12 I don't know what he's going to say.

13 MR. LOWRY: He got the answer before I
14 could get on my feet.

15 THE COURT: I don't think that he has
16 answered. There is no answer yet. Well, you know
17 the rules. Let's not have him become an expert on
18 the SNM Gang.

19 MR. BECK: Right.

20 THE COURT: If you want to have him
21 testify about the security unit, I think that's fair
22 game. But why don't you lead him so we don't get
23 him talking just about the SNM Gang.

24 MR. BECK: Sure.

25 MR. LOWRY: Okay, thank you.

1 (The following proceedings were held in
2 open court.)

3 THE COURT: All right. Mr. Beck.

4 BY MR. BECK:

5 Q. So I think the question I just asked you,
6 which you didn't get to answer, is how did the
7 Security Threat Intelligence Unit come to exist?

8 A. In the early to mid '90s, the executive
9 management of the New Mexico Corrections Department
10 saw that there was a significant threat, not only to
11 the safety of our prisons, but safety to the public,
12 as well, with these gangs and the violence that they
13 were engaging in within the prison system.

14 Q. And so let me ask you, is it because of
15 that need that the prison saw, is that what led to
16 the creation of the Security Threat Intelligence
17 Unit?

18 A. Yes.

19 Q. Is the Security Threat Intelligence
20 Unit -- you said it was about intelligence
21 gathering. Is it primarily dealing with
22 intelligence gathering from the prison gang?

23 A. No -- no, it's a wide range of policy.
24 The policy is pretty extensive. But it also -- the
25 majority of the policy has the STIU within the

1 confines of the prison system identifying gangs,
2 gang members, certifying those gangs if they pose a
3 significant threat to the -- to the safety and
4 security of the institution and validating its
5 members, as well.

6 So on a daily basis, what the Security
7 Threat Intelligence Unit staff would do at the
8 facility level is gather information, whether
9 through telephone monitoring, reading letters,
10 conducting searches, and what have you, you know,
11 doing tattoo screens, and what have you, we would
12 identify members and/or groups.

13 Q. When the secretary -- then Secretary
14 Marcantel came to be Secretary of the Department of
15 Corrections, is that when you were still the STIU
16 Coordinator?

17 A. I was the administrator.

18 Q. The administrator. Did the administration
19 at that time -- and by that I mean, the Secretary of
20 Corrections and his administration, implement
21 changes to the prisons, and specifically the
22 security threat groups at that time?

23 A. They modified some housing. How would I
24 put it? They modified some of the housing dynamics,
25 with regards to the population -- the inmate

1 population. Primarily with the security threat
2 groups, where we had them, and what programs we were
3 affording them at that time.

4 Q. And what were the changes that they wanted
5 you all to make?

6 A. They wanted to -- I'm going to say loosen
7 the reins a little bit, and start allowing them more
8 recreational time with regards to the security
9 threat groups, which at that time were -- the only
10 two certified security threat groups we had in our
11 prison system --

12 MR. LOWRY: Your Honor, I'm going to
13 object. Again, this is getting into territory we
14 agreed --

15 THE COURT: Why don't you just lead him
16 through this --

17 MR. BECK: I'll break it up --

18 THE COURT: -- and get what you want by
19 leading him?

20 MR. BECK: Sure.

21 BY MR. BECK:

22 Q. All right. Did the administration want to
23 give the security threat groups more freedom and let
24 them out into population where they hadn't been,
25 under the old administration?

1 A. Yes.

2 Q. Would you agree?

3 A. Yes, I did. I said and -- what was
4 proposed is that just monitor their activity for a
5 certain period of time, and then start affording
6 them more educational programming, more work
7 programs, what have you. I was in agreement because
8 I felt that, you know what, they've been locked down
9 long enough, as well. Let's start loosening the
10 reins off.

11 Q. Do you know who Anthony Ray Baca is?

12 A. I do.

13 Q. Who is that?

14 A. He's the identified leader of the SNM.

15 Q. And have you ever spoken with Anthony Ray
16 Baca?

17 A. Yes, I have.

18 Q. When was the first time you spoke with
19 Anthony Ray Baca?

20 A. I spoke to Baca -- it was either May or
21 June of 2008 when he returned to the New Mexico
22 Corrections Department. He returned to our custody
23 May or June of 2008 from Nevada. And I went and I
24 spoke with him when he first initially got back.

25 Q. Why did you do that?

1 A. My supervisor at the time advised me that
2 he was coming back.

3 Q. Just one second. I don't want to hear
4 about what other people told you.

5 A. Okay.

6 Q. I just want to know why you went and met
7 Mr. Baca when he came back.

8 A. He was identified as the leader of the
9 SNM, an influential leader. I did research on him
10 prior to him coming back, so I wanted to talk to him
11 once he came --

12 Q. And what did you talk to him about?

13 A. I introduced myself, I told him who I was.
14 And the reason I was talking to him, because he had
15 been identified as an influential person within the
16 Sindicato de Nuevo Mexico, and if he had any
17 questions, he could write me and ask.

18 Q. Did you interact with Mr. Baca outside of
19 that first instance in 2008?

20 A. After -- yes, I spoke to him on a couple
21 of occasions, but it was not within the same year.
22 It was a couple of years after.

23 Q. And what were the purposes of those
24 conversations -- or how did you interact with him?

25 A. What we would -- what I would do, seeing

1 that I was the administrator, I would go to all the
2 different facilities. Per policy, I was mandated to
3 go to every -- conduct threat assessments at every
4 prison facility throughout the state. So I was very
5 mobile.

6 And when I would go to the Southern New
7 Mexico Correctional Facility, I would talk to him,
8 along with -- not just him. I would talk to other
9 inmates, as well, see how things were going.

10 Q. And was this -- were these conversations
11 with Mr. Baca and other inmates, were they for some
12 personal reason, or were you just doing your job as
13 the Security Threat Intelligence Unit?

14 A. I was doing my job as the administrator.

15 Q. At some point in 2015, did you have a
16 meeting with administrators and FBI agents?

17 A. Yes.

18 Q. Now, I don't want to hear about what
19 happened in that conversation, but very soon after
20 that, did you leave after that meeting? Did you
21 leave and retire from the New Mexico Corrections
22 Department?

23 A. I retired from the New Mexico Corrections
24 Department in February 29 of 2016. It was within a
25 year.

1 Q. Do you still live in the state of New
2 Mexico?

3 A. Nope.

4 Q. Before that meeting, did you intend to
5 move outside the state of New Mexico after you
6 retired?

7 A. No, I did not.

8 Q. I'm going to show you what's been admitted
9 as Government's Exhibit 276. Can we focus on about
10 the top two-thirds of the writing there?

11 Now, Mr. Santistevan, do you know who
12 Ruben Rojas is?

13 A. I do not. I did not, I'm sorry.

14 Q. Do you know who Robert Martinez is?

15 A. Yes, I do.

16 Q. How do you know Robert Martinez? Who is
17 he?

18 A. He was identified for quite some time as
19 one of the enforcers and leaders of the SNM.

20 MR. LOWRY: Objection, Your Honor, calling
21 for hearsay.

22 THE COURT: Well, I think it's sufficient
23 that you just say that he knows him. I'm not sure
24 we need to get into how. Sustained.

25

1 BY MR. BECK:

2 Q. Did you ever see and talk to Mr. Martinez
3 when you were working with the STIU in the New
4 Mexico Corrections Department?

5 A. Yes. I had conversations with him on a
6 couple of occasions.

7 Q. And was that also because you were doing
8 your duties as the STIU administrator?

9 A. Yes.

10 Q. All right. Now, have you seen this letter
11 before?

12 A. I have not.

13 Q. Okay. Now, in this letter, as we work our
14 way down --

15 MR. LOWRY: Objection, Your Honor,
16 relevance of this? He's never seen this letter.

17 THE COURT: Well, I think it's relevant.
18 Overruled.

19 BY MR. BECK:

20 Q. So, in this letter, as we work our way
21 down here, it says that we've come together and
22 decided -- I'm going to start reading there, but I'm
23 not going to get in your way. "We've come together
24 and decided that it's time for us to send a message
25 to these" -- I can't read that word.

1 A. "Fools."

2 Q. "Fools," thank you. "And it's your
3 responsibility to deliver it. We want Gregg
4 Marcantel, Secretary of Corrections, and Dwayne
5 Santistevan to be taken out."

6 Now, do you know who Gregg Marcantel, the
7 Secretary of Corrections is?

8 A. Yes, I do.

9 Q. And is Dwayne Santistevan you?

10 A. Yes.

11 Q. Thank you. I'm going to show you
12 Government's Exhibit 277. Now, you said you know
13 who Robert Martinez is. Do you know who Sammy
14 Griego is?

15 A. Yes.

16 Q. As part of your job as STIU administrator,
17 did you also have an opportunity to talk with Sammy
18 Griego?

19 A. Yes.

20 Q. Have you read this letter before?

21 A. This one, I have.

22 Q. Now, I'm going to focus in on the top half
23 of this letter. In the process of doing your job as
24 STIU administrator, have you -- have you seen the
25 words, "big homies" before?

1 A. Yes.

2 Q. What does that mean to you?

3 A. The big home --

4 MR. LOWRY: Objection, Your Honor.

5 THE COURT: He can explain what it means
6 to him.

7 A. A "big homies" in the prison system means
8 the leadership of a certain group.

9 BY MR. BECK:

10 Q. Okay. And so this letter says, "Big
11 homies got together and decided we were going to
12 give you one opportunity to make things right with
13 us and the rest of the familia. We've decided that
14 Gregg Marcantel, Secretary of Corrections, and
15 Dwayne Santistevan need to be taken out. And it's
16 your responsibility to step up and get this done."

17 Now, do you believe -- is that Gregg
18 Marcantel, the Secretary of Corrections, that we
19 talked about earlier?

20 A. Yes.

21 Q. And are you Dwayne Santistevan?

22 A. Yes.

23 Q. I think we talked about -- you know
24 Mr. Anthony Ray Baca. Do you know if he has a
25 nickname?

1 A. He's got the nickname of Pup.

2 Q. And do you see Mr. Baca, Pup, in the
3 courtroom today?

4 A. Yes, I do.

5 Q. And what is he wearing?

6 A. I don't know if it's a black sweater or a
7 black shirt.

8 MR. BECK: Let the record reflect that
9 Mr. Santistevan recognized the Defendant Anthony Ray
10 Baca.

11 THE COURT: The record will so reflect.

12 MR. BECK: No further questions, Your
13 Honor.

14 THE COURT: Thank you, Mr. Beck.

15 Mr. Lowry, do you have cross-examination
16 of Mr. Santistevan?

17 MR. LOWRY: Briefly, Your Honor.

18 THE COURT: Mr. Lowry?

19 CROSS-EXAMINATION

20 BY MR. LOWRY:

21 Q. Good afternoon, Mr. Santistevan.

22 A. Good afternoon.

23 Q. Mr. Santistevan, with regard to
24 Government's Exhibit 276, you don't know who
25 authored that letter, do you?

1 A. No.

2 Q. And you don't know why that letter was
3 written, necessarily?

4 A. Let me retract that. When I read the
5 letter -- when I read the letter, my staff told me
6 who the author was.

7 Q. Okay. But let me ask it a different way.
8 Can we have 276 up, please? Do you recognize the
9 handwriting on that letter?

10 A. I do not.

11 Q. So you can't tell from the handwriting who
12 authored that letter?

13 A. No, it's not signed.

14 Q. And the same for Government's Exhibit 277?

15 A. Same, it's not signed.

16 Q. Do you recognize the handwriting?

17 A. It looks -- it looks like the other one,
18 but still again --

19 Q. But you don't know who the handwriting
20 belongs to?

21 A. No.

22 MR. LOWRY: May I have a moment, Your
23 Honor?

24 THE COURT: You may.

25 MR. LOWRY: No further questions, Your

1 Honor.

2 THE COURT: All right, thank you, Mr.

3 Lowry. Anyone else have cross-examination?

4 All right. Mr. Beck, do you have
5 redirect?

6 MR. BECK: No, Your Honor. Thank you.

7 THE COURT: All right. Mr. Santistevan,
8 you may step down.

9 Is there any reason Mr. Santistevan cannot
10 be excused from the proceedings, Mr. Lowry?

11 MR. LOWRY: Not at all, Your Honor.

12 THE COURT: All right. Mr. Beck?

13 MR. BECK: No, Your Honor.

14 THE COURT: All right. You're excused
15 from the proceedings. Thank you for your testimony.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: All right. Does the
18 Government have its next witness or evidence?

19 MR. CASTELLANO: Your Honor, the United
20 States recalls Special Agent Bryan Acee.

21 THE COURT: All right. Mr. Acee, if
22 you'll return to the witness box, I'll remind you
23 that you're still under oath.

24

25

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1 BRYAN ACEE,
2 after having been previously duly sworn under
3 oath, was questioned, and continued testifying
4 as follows:

5 DIRECT EXAMINATION
6 BY MR. CASTELLANO:

7 Q. Agent Acee, I wanted to recall you to
8 clarify and to touch on some points that have come
9 up during the trial now. When Eric Duran left New
10 Mexico, was he still -- after his cooperation and
11 after the recordings, was he still working for the
12 FBI?

13 A. Yes.

14 Q. And at some point did you hand him off to
15 another FBI office in another state?

16 A. I did.

17 Q. At that point if he was earning benefits,
18 was he earning benefits or basically getting paid as
19 a confidential human source from this case or was he
20 getting paid from the other district?

21 A. From the other district.

22 Q. And is that for any work he was doing over
23 there as a confidential human source?

24 A. Yes.

25 Q. Now, when someone's working as a source

1 like that, is the FBI supposed to be notified if
2 that person is arrested?

3 A. Yes.

4 Q. And in this case were you aware or were
5 you made aware of his arrest through FBI channels?

6 A. No.

7 Q. Do you know why that is? How is it that
8 you're supposed to be notified when someone is
9 arrested?

10 A. When someone is arrested, they're
11 fingerprinted by the jail facility. Those
12 fingerprints are entered into the FBI's NCIC, or
13 National Criminal Information Center database. And
14 it's been my experience, I've had informants
15 arrested before that I'll get the notification about
16 12 hours later. In this case we did not get
17 notifications.

18 Q. How did you find out that Eric Duran had
19 been arrested?

20 A. I learned it during a pretrial hearing
21 from one of the defense attorneys.

22 Q. So before that time did you know of any
23 arrest by him?

24 A. I did not.

25 Q. If that's the case, were you involved in

1 any of his cases or arrests since you had not heard
2 about them?

3 A. No.

4 Q. What did you do once you learned this
5 information?

6 A. Confirmed it. I reported it to the
7 authorities in the district, the state he was
8 working in, and I requested that they pick him on an
9 arrest warrant for violating parole.

10 Q. And did you try to contribute to his
11 arrest by using any investigative techniques?

12 A. I did.

13 Q. What did you do?

14 A. The agents that I work with on my team and
15 I drafted and obtained search warrants for Google,
16 Facebook, and a couple cellular telephone accounts
17 that we had attributed to him. We also interviewed
18 his family and associates. And we put out Be On The
19 Lookout fliers with the proactive police units in
20 the area that he was in and asked them to hunt him
21 down, to look for him.

22 Q. And then was he eventually arrested?

23 A. He was.

24 Q. Did you have anything do with any of his
25 cases or the disposition, dismissals, charging

1 decisions, anything like that?

2 A. Not with dismissals, no. I pushed that he
3 would be charged federally once I learned that there
4 was a firearm involved and he may have possessed it.

5 I pushed hard with your office and the
6 other prosecuting authorities to charge him
7 federally for it so that he'd, in my mind, be held
8 more accountable.

9 Q. And you mentioned a firearm was involved.
10 As a result -- was the firearm in the vehicle where
11 he was located?

12 A. It was under his seat. It wasn't on his
13 person, it was found under the seat that he was
14 seated in.

15 Q. And as a result of it being in at least
16 the same vehicle as him, what steps did you take
17 then to possibly match him up to that firearm?

18 A. I wrote a search warrant for Duran before
19 he even arrived back in New Mexico. I explained to
20 the judge that I expected him to be here within a
21 few days. The judge approved that warrant.

22 And once he arrived in New Mexico, myself
23 and Agent Stemo went to that facility and we
24 executed a search warrant, collected his DNA. And
25 then later that day, I Fed Ex'd it up to the FBI

1 agent in the other office and asked her to submit it
2 to their lab and use it in the potential prosecution
3 of Duran, to match that, Duran's DNA profile, to
4 what might be on the firearm.

5 Q. And are you aware of any results coming
6 back yet?

7 MR. LOWRY: Objection. Calls for hearsay.

8 THE COURT: Well, this will just be a
9 yes/no answer, and then we'll see if the Government
10 wants to --

11 MR. CASTELLANO: I'm not looking for what
12 the results are. I'm just asking if the results
13 have come back.

14 THE COURT: So it's a yes/no answer.

15 A. No.

16 BY MR. CASTELLANO:

17 Q. There has been discussion about Mr. Duran
18 receiving what's called a lump sum award from the
19 Department of Corrections. Did you have anything to
20 do with that?

21 A. I did not.

22 Q. There has obviously been a lot of
23 discussion about the Molina paperwork in this case.
24 Are you aware of when that investigation happened?

25 A. Yes.

1 Q. When was that?

2 A. July of 2009.

3 Q. And as far as you know, at least until
4 very recently, was any of the paperwork from that
5 discovery disclosed in this case?

6 A. It was not.

7 Q. So in other words, would there have been
8 paperwork from that investigation loaded onto the
9 tablets for people to see?

10 A. No.

11 Q. When we talk about the investigation of
12 July 2009 regarding Mr. Molina, what was the nature
13 of that investigation?

14 A. It talked about a lot of stuff, but I'll
15 try to narrow it. It was what I would describe as a
16 strong-arm robbery that involved more than one
17 subject. The police linked the vehicle in the
18 robbery to Molina. They questioned him about it,
19 and he provided a statement which actually was
20 recorded. I don't know if Molina knew that. But
21 the police reports included transcripts of the
22 recording the detective made of his interview. I
23 believe his residence was also searched.

24 Q. Regarding Mario Rodriguez, there was
25 discussion about a murder conspiracy he told you

1 about involving Carlos Herrera. Do you remember
2 that?

3 A. Yes.

4 Q. And did you listen to the recordings in
5 this case involving Mr. Herrera?

6 A. Yes.

7 Q. Did some of those recordings involve Mr.
8 Herrera speaking in a way that would be considered
9 disrespectful towards other SNM members?

10 A. Yes.

11 Q. And was it your understanding that part of
12 that disrespect was part of the reason for the
13 murder conspiracy?

14 A. Yes.

15 MR. MAYNARD: Objection, Your Honor.
16 That's just opinion, speculation.

17 THE COURT: Well, let me make sure I
18 understand the question. Did you ask the
19 question -- what the transcript says is recordings
20 involved Mr. Herrera speaking?

21 MR. CASTELLANO: That's correct, Your
22 Honor. From some of the recordings in this case.

23 THE COURT: Well, I'm going to sustain the
24 objection then.

25

1 BY MR. CASTELLANO:

2 Q. Regarding the shank found in Mario
3 Rodriguez's shoe, how is it that you became aware of
4 that?

5 A. He told me about it during a debrief.

6 Q. And then after he told you about it, was
7 it then discovered?

8 A. Yes.

9 Q. Did you discover any other items or shanks
10 from information that he provided?

11 A. Yes.

12 Q. Where were those shanks located?

13 A. They're both located up at the
14 Penitentiary of New Mexico. I believe one was in
15 the North facility, Level 6, and one in the South
16 facility.

17 Q. I'm not going to ask you for names here,
18 but did Mr. Rodriguez give you a name of a hit list
19 of people who were on a list as a result of
20 cooperation in this case?

21 A. Yes.

22 Q. There is also the testimony about a
23 meeting between Mr. Calbert, also known as Spider,
24 and Mr. Urquizo, also known as Marijuano. Do you
25 remember that?

1 A. I do.

2 Q. And do you remember the occasion where Mr.
3 Urquizo was debriefing at the FBI?

4 A. Yes.

5 Q. And was Mr. Calbert scheduled for a
6 possible debrief following Mr. Urquizo's debrief?

7 A. Yes.

8 Q. When these two meetings were scheduled,
9 was there any plan to have those two get together to
10 talk?

11 A. No.

12 Q. And as a result of speaking with Mr.
13 Urquizo, how was it that he and Mr. Calbert had the
14 idea of getting together?

15 A. Well, Calbert wasn't involved in the idea.
16 What happened is during our debrief of Urquizo at
17 the FBI office in Albuquerque, he mentioned that he
18 thought Calbert would --

19 MR. LOWRY: Objection. Hearsay.

20 THE COURT: Well, it seems like these are
21 just out-of-court statements being offered for the
22 truth, so sustained.

23 MR. CASTELLANO: It's only used for the
24 reason why they were -- we don't want them for the
25 truth, Your Honor, just to explain why the meeting

1 happened.

2 THE COURT: Well, I guess I'm not seeing
3 the importance of that, so it seems to me the
4 statements are coming in, so I'll sustain it.

5 MR. CASTELLANO: I'll rephrase, Your
6 Honor.

7 BY MR. CASTELLANO:

8 Q. Were you aware of any friendship between
9 Mr. Urquizo and Mr. Calbert as a result of the
10 debrief of Mr. Urquizo?

11 A. Yes.

12 Q. As a result of that friendship, on that
13 day was it clear whether or not Mr. Calbert would
14 cooperate with the Government?

15 A. No.

16 Q. And consequently then did Mr. Urquizo
17 believe that if he met with Mr. Calbert, he could
18 put him at ease about cooperation?

19 MR. LOWRY: Objection. Calls for hearsay.

20 THE COURT: Sustained. Sustained.

21 BY MR. CASTELLANO:

22 Q. Don't answer. So based on what you knew
23 about the relationship between Mr. Urquizo and Mr.
24 Calbert, did you put those two together?

25 A. Yes.

1 Q. About how long did they meet?

2 A. In my presence, about five minutes.

3 Q. Where did they meet out of your presence?

4 A. In the same area, but we allowed the
5 attorneys to close the door, both of their attorneys
6 were there and they wanted attorney-client
7 conversation without agents in the room. So I stood
8 outside the door.

9 Q. Were you able to see inside the room?

10 A. I was.

11 Q. How were you able to see in there?

12 A. There is a window. There are also
13 cameras, but we turned those off once the attorneys
14 went in.

15 Q. About how long was the meeting with those
16 two individuals and their attorneys?

17 A. About 10 minutes.

18 Q. After that meeting then did Mr. Calbert
19 agree to cooperate?

20 A. He did.

21 Q. In terms of the investigation of the SNM
22 prison gang, in addition to prosecuting people for
23 crimes, was one of the goals the dismantlement of
24 the gang?

25 A. It is.

1 Q. And by making people witnesses in this
2 case, how does that contribute to the dismantlement
3 of the gang?

4 A. Can't be FBI witnesses and prison gang
5 members.

6 Q. What about people who aren't witnesses but
7 still became informants, provided information to the
8 FBI and whose names were listed in reports?

9 A. Well, they have the same fate. They can't
10 be government cooperators and gangsters.

11 Q. So even for those people, once their name
12 comes out in the reports, is there much of an option
13 for them in terms of the SNM?

14 A. No. They sometimes think there is. They
15 have identity crisis, but don't make any mistake
16 about it, they can't be both.

17 Q. And the testimony in this case has
18 involved the SNM in the State of New Mexico prison
19 system. So ideally for some people will they then
20 be -- for convictions, just generally speaking, are
21 there places in federal prisons out of state where
22 people can be sent?

23 A. Yes.

24 Q. And there has been discussion about Gerald
25 Archuleta and the three-year maximum sentence he

1 faces. Do you remember that?

2 A. Yes.

3 Q. At one point were you seeking to have him
4 charged with something more serious based on the
5 injuries to Julian Romero?

6 A. I was.

7 Q. What happened as a result of the injuries?

8 A. Well, I couldn't find -- the medical
9 professionals that treated him did not agree that he
10 sustained serious bodily injury. And the statute,
11 in order for me to charge the more serious crime,
12 there had to be a finding of serious bodily injury.
13 And I needed a medical professional to testify to
14 that and they did not consider it serious bodily
15 injury.

16 Q. So the actual injuries suffered?

17 A. I'm sorry?

18 Q. The actual injuries that he suffered.

19 A. Yes. In the view of the medical staff,
20 that's what their conclusion was.

21 Q. And what impact does it have for someone
22 like Gerald Archuleta to become a government
23 witness, in terms of the gang?

24 A. It's demoralizing. He's one of their
25 great leaders and he wired up for us.

1 Q. And approximately how long before he
2 cooperated did he wire up, as you called it?

3 A. Well, it took us a while to get him back
4 to New Mexico, so I think it was right after he got
5 here. But I just -- I'm hesitating because I think
6 it might have taken a couple of months for him to
7 actually get here on the slow transport back to New
8 Mexico.

9 Q. And back to New Mexico from what state?

10 A. Tennessee.

11 Q. And how quickly did he agree to cooperate?

12 A. Right away, as soon as I met him.

13 Q. And the jury heard about a number of
14 murders for which he was convicted. Did he actually
15 serve time for those murders?

16 A. Yes.

17 Q. We've used the term debriefs a lot in this
18 trial. I don't know if we've ever really defined it
19 for the jury. What would you call a debrief or
20 debrief session?

21 A. Sure. A debrief session is my first
22 sit-down with a defendant. So I haven't met them.
23 And in the majority of these cases, the debriefs
24 were with defendants that were represented. So we
25 had to -- you know, their attorneys would come. The

1 attorneys here from the United States would come,
2 myself and the other agents. And it would be our
3 initial meet.

4 We'd introduced who we were. The
5 attorneys always introduced whatever legal
6 paperwork, typically the Kastigar letter. Sometimes
7 there were other discussions that the attorneys had.

8 And then at some point in the debrief, the
9 conversations turned over to the agents. And that's
10 when I or one of the other agents starts actually
11 debriefing and asking questions of the defendant.

12 Q. At an initial debrief -- and let's focus
13 on the SNM, for example. What's the initial
14 information you're seeking the first time you sit
15 down with somebody?

16 A. I want the 30,000-foot view, if you will,
17 of what they know. Because the case encompasses
18 over 30 years of stuff we're looking at. So I want
19 to know when they got in, what group, kind of what
20 leadership they fell under, how long they've been
21 in, who brought them in, which of the homicides they
22 know about, what years they were incarcerated, what
23 other family members they might have in. That sort
24 of general overview is what I'm looking for. So we
25 can narrow -- helps me narrow in later, in

1 subsequent interviews.

2 Q. And then generally speaking, you said
3 there are sometimes subsequent interviews. What do
4 you do with the information you initially get from a
5 first interview session?

6 A. Write it up in a 302.

7 Q. What's a 302?

8 A. Those are our standard reports. It's just
9 the number the FBI has given it many years ago.
10 It's a 302 form.

11 Q. Then what do you do with that information?

12 A. That's turned over to your office for
13 decisions in making prosecution, whether or not we
14 prosecute somebody.

15 Q. And for the cases we've referred to as
16 cold case homicides, once you received information
17 like that, did you then start digging to try to find
18 information related to those homicides?

19 A. Yes.

20 Q. And other crimes as well?

21 A. Yes.

22 Q. Now in a case like this, as we moved
23 closer to trial, did the information become more
24 focused on the defendants and the information for
25 this trial?

1 A. Absolutely.

2 Q. Now, at some point when someone decides to
3 cooperate, were there times when you would do what's
4 called a threat analysis with family members?

5 A. Yes, I always did that if they had family.

6 Q. What was the purpose of doing that?

7 A. Mainly so that the family -- particularly
8 in these cases, most of the family members were gang
9 members. And I wanted to give them a face-to-face
10 where they could see us, gauge our sincerity in
11 trying to keep them safe, give them our contact
12 information. Explain kind of our expectations of
13 the family and what their options were in terms of
14 safety.

15 Q. And there's also been probably a little
16 confusion about who debriefed when and when they
17 pled guilty, things of that nature. Did you prepare
18 something to aid you in your testimony in terms of
19 when people debriefed, how many times and when they
20 pled guilty?

21 A. Yes.

22 Q. Would it aid your testimony to look at
23 this document?

24 A. Yes, sir.

25 MR. CASTELLANO: May I have a moment, Your

1 Honor?

2 THE COURT: You may.

3 MR. CASTELLANO: May I approach the
4 witness, Your Honor?

5 THE COURT: You may.

6 BY MR. CASTELLANO:

7 Q. Agent Acee, for purposes of
8 identification, I'm handing you what's been marked
9 as Government's Exhibit 777. I'll have you look at
10 it and tell us what that document is.

11 A. This is a chart I created a couple days
12 ago. It charts witness debriefings of the 16
13 cooperating defendants or witnesses in this case.

14 Q. And what's documented in this exhibit?

15 A. The dates of their debriefs. And then
16 that's just in columns. I've identified each one by
17 name as well as their moniker if they have one. And
18 then on the end column, I put the date that they
19 pled guilty, if it involved a guilty plea. Those
20 that weren't charged, it just says N/A next to it.

21 Q. So when we talk about debriefs, really how
22 short or long can some of the reports be in a case
23 like this?

24 A. I think my shortest reports might only be
25 a page. And some of the longer ones might be a

1 dozen or 20 pages, single spaced, typed.

2 Q. So on the first particular meeting, are
3 you going to get every bit of information out of
4 somebody that they have?

5 A. No. And I mean please keep in mind, I'm
6 learning about the organization as I'm meeting these
7 guys and talking to them. It wasn't an organization
8 I had really any knowledge of before I started the
9 case. So I'm learning as we go as well about the
10 organization.

11 Q. And so when we call it a debrief, is it
12 basically just an interview between the defendant
13 and members of the government?

14 A. Yes, and their attorney is there.

15 Q. And speaking of attorneys, when Billy
16 Cordova first agreed to record in the prison, do you
17 know if he was even represented at the very
18 beginning?

19 A. He wasn't. He had an attorney related to
20 his state case. I didn't interact with that
21 attorney. He wasn't appointed a federal attorney
22 until after, much later after the recordings.

23 Q. The debrief dates on here are based on
24 what information?

25 A. My 302s or the 302s of other agents.

1 Q. Did you compile this list to aid you in
2 your testimony?

3 A. Yes, sir.

4 MR. CASTELLANO: Your Honor, at this time
5 I move the admission of Government's Exhibit 777.

6 THE COURT: Any objection?

7 MR. LOWRY: Your Honor, yes. Under 1006,
8 we just haven't had sufficient notice to review this
9 to compare or assess its accuracy.

10 MS. JACKS: I would join.

11 THE COURT: Well, let's do this. Why
12 don't y'all take a look at it during the break?
13 What I'd be inclined to do is admit it, you can look
14 at it over the weekend. If there's some problem, it
15 will be a conditional admittance. The only issue is
16 whether he got it right, and give you some chance to
17 look at it. If we need to correct it, we'll correct
18 it. Would that work for you, Mr. Lowry?

19 MR. LOWRY: I believe it would, Your
20 Honor. Yes, if you're giving us the weekend to look
21 at it.

22 THE COURT: If it's a conditional
23 admittance, would that work with you, Ms. Jacks?

24 MS. JACKS: That will.

25 THE COURT: All right. So I'll admit

1 conditionally Exhibit 777, but give the defendants
2 an opportunity to look at it during the break and
3 over the weekend. If we need to make some changes,
4 we'll address it then.

5 All right. Why don't we take our
6 afternoon break at this point, so be in recess for
7 about 15 minutes. All rise.

8 (The jury left the courtroom.)

9 THE COURT: All right. We'll be in recess
10 for about 15 minutes.

11 (The Court stood in recess.)

12 THE COURT: Let's go on the record while
13 Ms. Standridge is getting the jury. We got a
14 note -- was it from Juror Number 14? Was it from
15 Mr. Johnston or --

16 CLERK: Yes.

17 THE COURT: Mr. Johnston. Received a note
18 from Mr. Johnston. It says, "Clarification/:" It
19 says "Will transcripts or recordings be available,"
20 looks like he abbreviated that, just "A-V-A-I-L for
21 jury deliberation?" I think I had ruled earlier
22 that they would not. I think that was what the
23 defendants wanted. So unless there's some change of
24 heart, do you want the transcripts to go back? I
25 guess I could do two things. One, I could just not

1 address it today and leave it for something -- you
2 know, they'll just get the evidence and they'll
3 figure it out on their own. Or I could say no, or I
4 could read the cautionary instruction about
5 transcripts. And then at the very end, after I do
6 it, just indicate what I said in the preliminary
7 instruction -- I'd have to get a copy of the
8 preliminary, printout of the preliminary, where I
9 told them that they wouldn't get transcript. But
10 that was more of Ms. Bean's transcripts than
11 anything else. I'm not sure it addresses it.

12 Any thoughts from the defendants?

13 MR. LOWRY: Yes, Your Honor. I don't know
14 that I speak on behalf of everyone. But I exchanged
15 emails with Mr. Beck over the weekend, I believe.
16 And it was our understanding that the transcripts
17 would not go back and they would not be tendered as
18 exhibits.

19 And frankly, out of a professional
20 courtesy, we didn't quibble too much with the
21 transcripts that were offered by the United States,
22 but they're -- and I don't mean this in a derogatory
23 way, but they're riddled with errors. And it would
24 be just fundamentally unfair --

25 THE COURT: I'm not asking you to change.

1 I just need to know what you want me to tell the
2 jury.

3 MR. LOWRY: No, they're not going back.

4 THE COURT: Do you want me to give them a
5 cautionary instruction at this time and then just
6 add that?

7 MR. LOWRY: Yes.

8 MS. JACKS: Your Honor --

9 MR. LOWRY: Go ahead.

10 MS. JACKS: -- may I be heard?

11 THE COURT: Uh-huh.

12 MS. JACKS: My suggestion would be to do
13 nothing until the case is over and the Court reads
14 the instructions to the jury. And then at that
15 time, if they still have a further question, to
16 answer it then.

17 But I think by answering it now and
18 answering it so quickly, I think we're just inviting
19 more questions of the same nature.

20 THE COURT: Well, y'all think about it
21 over the weekend. One thing we can do, we do have
22 this cautionary instruction in our final. So if you
23 want to add something, you're not going to get the
24 transcripts, or something, we can add that. They'll
25 figure it out soon enough. Why don't I just have

1 Ms. Standridge mark that as Exhibit --

2 THE CLERK: T.

3 THE COURT: -- T, just so the record's
4 clear. My yellow sheet to you today was R.

5 Ms. Duncan's three documents were S, so this will be
6 Exhibit T to the clerk's minutes.

7 All rise.

8 (The jury entered the courtroom.)

9 THE COURT: All right. Mr. Acee, I'll
10 remind you that you're still under oath.

11 Mr. Castellano, if you wish to continue
12 your direct examination of Mr. Acee, you may do so
13 at this time.

14 MR. CASTELLANO: Thank you, Your Honor.

15 May I publish Government's Exhibit 777 at
16 this time?

17 THE COURT: You may.

18 BY MR. CASTELLANO:

19 Q. Agent Acee, I'm showing you Government's
20 Exhibit 777. And for starters, I'm highlighting
21 Gerald Archuleta's name on there. He's number 10 on
22 the list. And can you see from his initial debrief
23 on 1/21 of '16, to his guilty plea date on 6/16 of
24 '16, is it fair to say within five months of his
25 initial debrief he pled guilty?

1 A. Yes, sir.

2 Q. And so there's been a lot of questions in
3 this case about when people were housed with
4 cooperators and things of that nature. For the most
5 part, when the initial debrief date is given in the
6 first column, is that generally the date when
7 someone decided to cooperate?

8 A. Yes.

9 Q. So if we see those dates, we know on or
10 about that date that that's when the person decided
11 to cooperate with the Government?

12 A. Correct.

13 Q. And so another example is, let's see,
14 Mario Rodriguez. So he's Number 5 on this list. So
15 is he one of the latest people to debrief and
16 cooperate?

17 A. Yes, he's the latest.

18 Q. And also on these dates, when we have
19 later dates, going all the way to as recently as
20 January and February of 2018, are those going to be
21 the later debriefs in preparation for trial?

22 A. Yes. And those were largely driven by
23 your office, the terms of the debrief session, the
24 questioning or the attorneys.

25 Q. Okay. So moving closer to trial and now

1 asking more specific questions about the Javier
2 Molina and other charges in this case?

3 A. Like a laser focus on events, yes.

4 Q. Now, in terms of dismantlement of the
5 gang, I think you said we used Gerald Archuleta as
6 an example, number 10. So in addition to
7 prosecution of Gerald Archuleta, then what impact
8 does that have to have someone like him cooperating
9 and out of the gang?

10 A. Well, it's just hugely demoralizing for
11 the gang. A lot of the guys I talked to didn't
12 believe me. I had to actually play recordings of
13 him talking to me before they'd even believe that he
14 would talk to us.

15 Q. And is it fair to say from the testimony
16 we heard in court that for a long period of time he
17 was an influential member of the SNM?

18 A. Yes.

19 Q. And once again referencing the testimony
20 in this case, can he ever, in your opinion, be an
21 influential member of the SNM Gang?

22 A. No, not any gang.

23 Q. Is that based on his cooperation?

24 A. Yes.

25 Q. Now, going back to dismantlement of the

1 gang, was part of that process the recruitment of
2 confidential informants or what you referred to as
3 confidential human sources?

4 A. Yes.

5 Q. At the beginning of this trial, you talked
6 about using certain investigative techniques. Did
7 we see some of those techniques in this trial?

8 A. Yes.

9 Q. And one example I want to ask you about is
10 Mario Montoya, for example. Did you use a
11 confidential human source to buy drugs from Mario
12 Montoya?

13 A. Yes, Mario was a target when I started the
14 case.

15 Q. And then after that, did he agree to
16 cooperate?

17 A. Yes.

18 Q. Did that enable you to capture some of the
19 information regarding the Marcantel and Santistevan
20 conspiracies?

21 A. Yes, it did.

22 Q. Also regarding people like Eric Duran and
23 Mario Montoya, at some point in time did it become
24 apparent that one of them was figuring out that the
25 other one might be a confidential source?

1 A. Yes.

2 Q. Who was that person?

3 A. I think Duran figured it out first. I can
4 explain why if you want, but I think Duran probably
5 figured it out first.

6 Q. Do you know about how long it took before
7 he figured that out?

8 A. It was toward the end of the conspiracy
9 investigation.

10 Q. And did you do anything to try to throw
11 him off the scent of Mario Montoya as a cooperator?

12 A. I did initially.

13 Q. How did you do that?

14 A. Well, I told him -- I pushed him toward
15 choosing Mario. There were a couple of options for
16 guys on the street that could have been used as the
17 hit man on the street, if you will. I wanted Mario
18 because he was cooperating.

19 So I told Duran that we were tracking
20 Mario and that we had a wiretap on his phone, which
21 was true. But I made it sound like it was more of
22 an unknown to Mario that we were tracking him, and I
23 represented that to Duran.

24 Q. Some of the witnesses in this case have
25 talked about the witness protection program. Do you

1 know it by any other names?

2 A. That's what Hollywood calls it. It's
3 actually Witness Security or WITSEC, but I do know a
4 little bit about the program.

5 Q. And have you had discussions with some of
6 the cooperators about this being a potential option
7 for them?

8 A. Yes.

9 Q. At this point are any of the cooperators
10 in that program?

11 A. No.

12 Q. And do you anticipate at some point that
13 you may apply for them to enter that program?

14 A. Yes, I anticipate applying for a few of
15 them.

16 Q. And for the cooperators who have to do
17 prison time if they're in the program, is there a
18 safer prison for them to go to?

19 A. Yes.

20 Q. Is that basically a prison for other
21 people who have cooperated?

22 A. Correct.

23 Q. A few of them mentioned getting things
24 like new identities and money and cars and things of
25 that nature. What's your understanding of what --

1 how that works when someone is not in a secure
2 facility but then is on the streets into the
3 program?

4 A. Yeah, those are all things that are
5 available as part of the Witness Security program.
6 But that's not something I represent because the FBI
7 doesn't run the program. That's not something I can
8 control. I think a lot of that came from just what
9 people see on the movies and stuff.

10 Q. Have you made representations to that
11 effect, that they'll get houses and cars and things
12 of that nature?

13 A. No. These are not the kind of guys you
14 want to make fake promises to, they'll remember
15 that.

16 Q. I want to talk to you about this meeting
17 with Ronald Sanchez that was discussed here in
18 court. Do you remember that?

19 A. Yes.

20 Q. Who requested that meeting?

21 A. Mr. Sanchez, Ronald Sanchez.

22 Q. Is that Daniel Sanchez's brother?

23 A. Yes.

24 Q. Did you eventually meet with Ronald
25 Sanchez?

1 A. I did.

2 Q. Was anyone else at that meeting?

3 A. Yes, Mario Rodriguez, Agent Nancy Stemo.

4 And at that time Task Force Officer Mark Myers, who
5 was a corrections official, and Sergio Sapien of the
6 STIU. He's a captain with the STIU over at PNM.

7 Q. Why was Mario Rodriguez present at this
8 meeting with Ronald Sanchez?

9 A. My understanding was he wanted -- Ronald
10 wanted him there.

11 Q. At that point was Mario Rodriguez already
12 cooperating?

13 A. He was.

14 Q. And did Ronald Sanchez know that Mario
15 Rodriguez was cooperating?

16 A. Yes.

17 Q. What questions did Ronald Sanchez have at
18 that meeting?

19 MS. JACKS: Objection, hearsay.

20 THE COURT: Well, what is this being
21 offered for?

22 MR. CASTELLANO: It's to lay the
23 background of the meeting. And these are questions,
24 not assertions, Your Honor. They would be
25 nonhearsay.

1 THE COURT: Well, why don't you ask him
2 first if he had questions. Let's lay a foundation.

3 MR. CASTELLANO: Sure.

4 MS. JACKS: And I'm also going to object
5 based on relevance.

6 THE COURT: Is it necessary to get into
7 all this to get the testimony you want from Mr.
8 Acee?

9 MR. CASTELLANO: It is, Your Honor. I
10 believe it was Mr. Sanchez's counsel who asked
11 questions about this meeting, and he also introduced
12 a letter that came out of this meeting. They
13 actually moved some of this information into
14 evidence.

15 THE COURT: All right. Well, let's do
16 this. Let's ask him first a foundational question,
17 whether he had questions, let me hear the answer to
18 that. Then I'll decide how we're going to proceed
19 from there.

20 BY MR. CASTELLANO:

21 Q. Did Ronald Sanchez have questions at this
22 meeting?

23 A. Yes.

24 Q. And the questions were in the nature of
25 what topics?

1 THE COURT: Let's do this. If we're going
2 to make them questions so they avoid hearsay,
3 Mr. Acee can just relate what the questions are and
4 nothing else.

5 MR. CASTELLANO: Sure, Your Honor.

6 BY MR. CASTELLANO:

7 Q. Okay. So you heard the Court's
8 instructions. Let's stick to that. What -- one at
9 a time, what were the questions that Ronald Sanchez
10 had?

11 A. The first one was what could be done for
12 his brother Daniel in terms of a plea agreement and
13 sentence.

14 Q. Okay. What was the next one?

15 A. What could be done for Ronald and his --
16 the state case he was serving. And the third
17 question was -- it was a couple different questions,
18 but it pertained to how could Ronald and Daniel do
19 their time together.

20 Q. And was there a clarification question
21 about whether that would be in state or federal
22 custody?

23 A. Both were discussed.

24 Q. And as a result of this meeting, then, did
25 Mario Rodriguez write a letter to Daniel Sanchez?

1 A. He'd already written the letter because he
2 gave it to me at the conclusion of the meeting, and
3 so it was already written. There were two letters.

4 Q. What did you do with those letters?

5 A. I wasn't sure I could take them, so I
6 called Ms. Armijo and I asked her what I should do
7 with the letters.

8 Q. And what happened to those letters?

9 A. I delivered them to your office and I
10 believe Ms. Armijo sent them to -- the letters were
11 addressed to two people that had attorneys, and
12 that's why I hesitated in taking them.

13 So Ms. Armijo caused those letters to be
14 sent to the attorneys representing the defendants
15 that the letters were addressed to, if that makes
16 sense.

17 Q. Who were those letters addressed to?

18 A. Daniel Sanchez and Sergio Rodriguez,
19 Churro, who is a defendant in another case.

20 Q. Do you know what the general intent or
21 purpose was in those letters?

22 A. Yes.

23 Q. What was the intent or the purpose?

24 MS. JACKS: Objection, calls for hearsay.

25 THE COURT: Well, I think probably given

1 the contents of the other letters, would be -- would
2 be, so I'll sustain.

3 MR. CASTELLANO: I don't recall, Your
4 Honor, was one of those letters moved into evidence?

5 THE COURT: If that's the case, then you
6 can discuss those. But we probably need to be
7 reminded which ones you're referring to.

8 MR. CASTELLANO: I don't have the defense
9 exhibit, Your Honor. If the defense could provide
10 that, I'd be happy to show it to Agent Acee.

11 MS. JACKS: I'm actually looking for that
12 now. My recollection is that he was asked questions
13 but I don't believe the letter itself was admitted.

14 THE COURT: Is it a defendants' exhibit?

15 MS. JACKS: It is.

16 THE COURT: Do you have any objection to
17 moving it into evidence?

18 MS. JACKS: If it's not in evidence, I'm
19 not moving it in now.

20 THE COURT: Then you would oppose the
21 Government doing so?

22 MS. JACKS: If it's not already been
23 admitted, yes.

24 MR. CASTELLANO: I move its admission at
25 this time, Your Honor.

1 THE COURT: Well, I probably don't have
2 any basis for admitting it, so I won't admit it.
3 It's in evidence. Do you know, Ms. Jacks, what the
4 number -- what the letter is?

5 MS. JACKS: Your Honor, that's what I'm
6 looking for right now. Obviously I didn't get a
7 preview of what this line of questioning would be,
8 so I don't have it at my fingertips. I can get it
9 in the next few minutes.

10 BY MR. CASTELLANO:

11 Q. At the time of this meeting, was Ronald
12 Sanchez still in prison?

13 A. Yes.

14 Q. And was that meeting recorded and was
15 there a transcript prepared of that meeting?

16 A. Yes to both.

17 MR. CASTELLANO: Your Honor, it's Bates
18 51520. May have a moment, Your Honor? I'll check
19 with our paralegal.

20 THE COURT: You may.

21 MS. JACKS: According to the transcript,
22 Your Honor, the exhibit is F as in Frank, C as in
23 cat.

24 THE COURT: It was not admitted?

25 MS. JACKS: My recollection, and I'm

1 looking at the transcript, is that Mr. Rodriguez was
2 questioned about the content of the letter but the
3 letter itself was not offered into evidence.

4 MR. CASTELLANO: Okay. So it seems, Your
5 Honor, is that some of the content of that letter
6 then is part of the evidence.

7 MS. JACKS: Correct. It was the P.S.

8 THE COURT: Well, unless you can explain
9 some basis for admitting it, I don't think it can be
10 admitted.

11 MR. CASTELLANO: We'd move it under the
12 rule of completeness, Your Honor.

13 THE COURT: I'll deny the admission.

14 BY MR. CASTELLANO:

15 Q. Agent Acee, once again, whose idea was
16 this meeting?

17 A. Ronald Sanchez.

18 Q. Going back to meeting with other people
19 who were either targets of the investigation or
20 defendants charged, did you ever threaten anybody
21 with the death penalty?

22 A. No.

23 MR. CASTELLANO: Your Honor, I pass the
24 witness.

25 THE COURT: Thank you, Mr. Castellano.

1 Cross-examination of Mr. Acee, Mr. Lowry?

2 MR. LOWRY: Yes, Your Honor. Could we
3 approach briefly?

4 THE COURT: You may.

5 (The following proceedings were held at
6 the bench.)

7 MR. LOWRY: Your Honor, I'm happy to
8 cross-examine him on the scope of what was just
9 presented. Frankly, we would anticipate recalling
10 him early next week in the defense case-in-chief and
11 I'd rather pursue it that way, not to break up the
12 State's case, and make our presentation more
13 effective.

14 THE COURT: Any objection to that?

15 MR. CASTELLANO: I would ask the same
16 thing, if we have direct examination, that they do
17 it in their case.

18 MR. LOWRY: Okay.

19 THE COURT: So we have an agreement. Is
20 that where all the other defendants are, as well?

21 MR. LOWRY: I believe so.

22 MS. JACKS: We're agreeable. We've
23 actually had two witnesses sitting around for two
24 days that we don't want to have to bring back next
25 week, so we're prepared to go forward.

1 THE COURT: But there's no issues or
2 problems with them calling Mr. Acee next week?

3 MR. CASTELLANO: I anticipate that's what
4 we're going to do.

5 MR. MAYNARD: There may be.

6 MS. JACKS: That was just to cross-examine
7 him on what is brought out and bring out additional
8 information important for our case. It's prior
9 statements and stuff like that.

10 MR. MAYNARD: There might be another issue
11 coming up with -- Mr. Lowry wanted to get into about
12 the --

13 MR. LOWRY: No, you're not going to.

14 MR. MAYNARD: Okay. I wanted to protect
15 Mr. Herrera's situation.

16 THE COURT: Do y'all feel you have an
17 agreement?

18 MS. JACKS: I think so. So what we'll do
19 now is reserve the cross.

20 THE COURT: And would you rest and go
21 forward?

22 MR. CASTELLANO: I think you just call him
23 as a witness, as long as --

24 THE COURT: I'll just ask, "Any cross,"
25 and y'all can say no.

1 MS. FOX-YOUNG: We'll say we reserve it,
2 Your Honor.

3 THE COURT: Say whatever you want.

4 MS. JACKS: All right.

5 THE COURT: Work for you?

6 MR. CASTELLANO: Yes, Your Honor. I think
7 we're about to rest. I'd ask the Court for a
8 ten-minute recess just to make sure we check our
9 exhibits and make sure we haven't missed anything.

10 THE COURT: What if we did this for the
11 defendants? They can go ahead and rest and check
12 the exhibits afterwards. If there is some
13 discrepancy between my list and Ms. Standridge's
14 list, and then the list the Government has, can
15 everybody agree that they can just reopen if
16 necessary to correct any exhibits?

17 MS. JACKS: I agree.

18 MR. CASTELLANO: Agreed, Your Honor.

19 MS. JACKS: And in terms of a Rule 29
20 motion, can we do those after the jury is gone?

21 THE COURT: What I was thinking about
22 doing, and asking to reserve, this is after y'all
23 say no more cross, you go ahead and rest. I'll do
24 my statement about the exhibits and then send them
25 out. And if y'all need to make motions, you can.

1 And it sounds like you've got a couple of witnesses.
2 You can probably make your motion as long or short
3 as you want, we'll bring them back and start with
4 your two witnesses. Sound good?

5 MS. JACKS: Yes.

6 MR. LOWRY: Yes, sir.

7 (The following proceedings were held in
8 open court.)

9 THE COURT: All right. Do the defendants
10 have cross-examination of Mr. Acee at this time?

11 MS. JACKS: Your Honor, based on our
12 discussion at the bench, we're going to reserve that
13 and recall Mr. Acee during our case next week.

14 THE COURT: All right. Is that where all
15 the other defendants are, as well?

16 ALL: Yes, Your Honor.

17 THE COURT: All right. Mr. Acee, you may
18 step down. Thank you for your testimony.

19 All right. Does the Government have its
20 next witness or evidence?

21 MR. CASTELLANO: No, Your Honor. The
22 Government rests at this time.

23 THE COURT: All right. I'm going to hand
24 my list of exhibits to Ms. Standridge, and she'll
25 check them against her notes to make sure hers and

1 mine match. And then if the Government will use
2 this opportunity to check your list with mine and
3 Ms. Standridge to make sure, then, that our exhibit
4 lists are consistent, and we'll proceed.

5 All right. Ladies and gentlemen, I'm
6 going to meet with the attorneys and the parties
7 here for a second. So since we are changing gears
8 in this case, the Government has rested, I'm going
9 to remind you of a few things that are especially
10 important.

11 Until the trial is completed, you're not
12 discuss this case with anyone, whether it's members
13 of your family, people involved in the trial, or
14 anyone else, and that includes your fellow jurors.
15 If anyone approaches and tries to discuss the trial
16 with you, please let me know immediately.

17 Also, you must not listen to any news
18 reports, read or listen to any news reports of the
19 trial. Again, don't get on the internet and do any
20 research for purposes of this case. And finally,
21 remember that you must not talk about anything with
22 any person involved in the trial, even if it doesn't
23 have anything to do with the trial.

24 If you need to speak with me, give a note
25 to one of the Court Security Officers or

1 Ms. Standridge. We may start hearing these a little
2 bit more as we begin to change gears here today and
3 next week. But if I don't give you these
4 instructions, do keep them in mind because we've
5 worked real hard, and we want to keep bringing this
6 case to a good landing. So do keep these in mind,
7 and you've been very good about it. So keep it
8 going as we bring the case to a conclusion.

9 All right. I'm going to be meeting with
10 the lawyers, so relax for a little bit, we'll be
11 back with you shortly.

12 All rise.

13 (The jury left the courtroom.)

14 THE COURT: All right, everyone be seated.

15 All right. Is there anything we need to
16 take up before the defendants put on their case?
17 From any of the defendants?

18 MR. LOWRY: The Rule 29 motions, Your
19 Honor?

20 THE COURT: If that's what you'd like to
21 bring.

22 MR. LOWRY: Do we want to get exhibits
23 first?

24 THE COURT: Well, they'll be just matching
25 it. I think we have an agreement if there is a

1 discrepancy, they can reopen to clear up the
2 exhibits. But they're going to continue to work
3 during the break, and maybe even today and
4 tomorrow -- Monday on that.

5 MR. LOWRY: That's fine, Your Honor. Yes.
6 So on behalf Anthony Ray Baca and under Rule 29,
7 Your Honor, we'd move for the dismissal of the Count
8 8, I believe, it's conspiracy to commit aggravated
9 battery.

10 We just heard -- I know we haven't quite
11 settled on jury instructions, and I know based on
12 the Court's iteration that it is a competing set of
13 jury instructions. But if you look at their
14 superseding indictment that's at play, what the
15 Government has done is alleged an offense under the
16 State of New Mexico statute for that offense. And I
17 believe I'm going to reference the proposed jury
18 instructions.

19 But under state law, that would require a
20 finding that there was an intent to cause great
21 bodily harm. And we just heard Agent Acee testify
22 that not even the prosecution could find a doctor or
23 doctors that would agree that there was serious
24 bodily harm inflicted in this matter. Based on that
25 testimony, we would suggest that a directed verdict

1 is appropriate in this -- for that count.

2 You know, I know the Government has
3 tendered -- I don't want to argue -- end up arguing
4 jury instructions here, Your Honor, but I notice
5 that the Government had suggested a jury instruction
6 that included as an essential element of the crime
7 extreme physical pain. And as we argued in our
8 objections to the Government's jury instructions,
9 that's just not an element of the state crime. And
10 given that the state crime doesn't require that
11 finding, but rather it requires a finding of -- I
12 think there are three subsets, which is death, great
13 bodily harm or -- I think it's on page 64 of the
14 proposed sixth set at Jury Instruction Number 43.

15 Under state law, it creates a high
16 probability of death, serious disfigurement, or the
17 result of a loss of any member or organ of the body.
18 Or results in permanent or prolonged impairment --
19 or for the use of any member or organ of the body.
20 And I don't think we have any of those conditions at
21 play here. And for that, Your Honor, we would ask
22 that the Court direct a verdict of not guilty on --
23 I believe it is Count 8 of the second superseding
24 indictment, which would be Count 3 as proposed in
25 these instructions.

1 THE COURT: All right. Thank you, Mr.
2 Lowry.

3 Mr. Castellano?

4 MR. CASTELLANO: Your Honor, as the Court
5 knows, the standard is the Court should look at the
6 evidence in the light most favorable to the
7 nonmoving party, which is the United States in this
8 case.

9 Just to make it easier in terms of
10 counting, this is the Julian Romero conspiracy. And
11 we agree the resulting injuries are what Agent Acee
12 testified to, but this isn't -- the charge isn't the
13 assault, it's a conspiracy to commit the assault.
14 So I think there is plenty of evidence that there
15 is -- that there is a conspiracy to do those things.
16 We don't have to prove they actually happened.

17 And so, actually, if you ask Julian --
18 Gerald Archuleta, it's a conspiracy to murder. So
19 certainly the conspiracy to either murder him or
20 smash him or whatever other term was used by -- for
21 example, Guadalupe Urquizo, who gave the order that
22 he be smashed, and the order that Carlos Herrera
23 ordered that he be smashed. And the resulting
24 injury, which was still pretty close to the
25 statutory definition, it's clear that the conspiracy

1 was there. And we don't need to prove the
2 underlying injuries or the resultant injuries.

3 I think viewed in the light most favorable
4 to the Government, the jury could find that the
5 conspiracy to do those things existed.

6 MR. LOWRY: Your Honor, may I have a brief
7 response?

8 THE COURT: Yeah. I was going to have a
9 question, here. But the -- but it's not a
10 conspiracy to attempt to commit aggravated assault.
11 The charge is conspiracy to -- to assault. I mean,
12 I'm looking at your Jury Instruction Number 17. It
13 says, "The essential elements of assault resulting
14 in serious bodily injury are" -- and the second
15 element is 2. "As a result of this assault, Mr.
16 Romero suffered serious bodily injury." And then
17 you give a definition of serious bodily injury,
18 which I do think has some tension with Instruction
19 Number 43, which does have the state definition of
20 great bodily harm and doesn't include the extreme
21 physical pain. But the jury instruction you
22 submitted has an essential element that Mr. Romero
23 suffered serious bodily injury. So --

24 MR. CASTELLANO: The jury has to be
25 instructed on what the underlying crime is that was

1 the subject of the conspiracy. So we don't actually
2 have to prove any of those things. The same thing
3 with the conspiracy to murder. We wouldn't have to
4 prove that somebody was murdered, we would have to
5 prove there was an agreement to murder.

6 And the jury heard evidence and saw
7 evidence of an indentation in the side of Julian
8 Romero's head. They saw the part of his face that
9 had to be stitched, and the fact that his eyes were
10 closed. They actually also -- also saw the assault
11 itself on the video. So I think the resulting
12 injuries, the indentation in his head, and the video
13 itself, clearly establish that there was an
14 agreement that this type of injury results.

15 THE COURT: All right. Mr. Lowry?

16 MR. LOWRY: Well, Your Honor, a couple of
17 things there. You heard conflicting testimony. And
18 what you heard is the only person that wanted Julian
19 Romero murdered was Gerald Archuleta. And I believe
20 you heard testimony from -- I believe it was Mario
21 Rodriguez, who said he wanted to cut and really hurt
22 Julian Romero. But according to Mr. Rodriguez,
23 Mr. Baca wouldn't allow that to happen.

24 So according to that testimony, there is
25 actually the argument that Mr. Baca interceded to

1 prevent the murder. Now, what I'm suggesting here
2 is in terms of the statutory elements, Mr.
3 Castellano just referenced this indentation on Mr.
4 Romero's head.

5 Now, I think it's critical for the
6 Court -- Mr. Romero didn't testify about any of his
7 injuries whatsoever. And to the extent that the
8 employee from the Corrections Department testified
9 that there was an indentation, his testimony was
10 that was the only time he'd ever laid eyes on Julian
11 Romero, and he had no idea whether that indentation
12 existed before that day, or not.

13 So I don't think that indentation on his
14 forehead rises to the level of any kind of permanent
15 disfigurement, but certainly not to beyond a
16 reasonable doubt. And Mr. Romero was here, sat in
17 the jury box, and there wasn't even any kind of
18 comment put on the record about whether or not the
19 indentation existed, to this day, on Mr. Romero.
20 And the opportunity was there.

21 So I still stand by our motion for
22 directed verdict that they just haven't met the
23 requisite showing to find any of the essential
24 injuries that exist under the state statute for
25 aggravated battery to exist in this matter.

1 And I just think that Agent Acee's
2 testimony that not even medical professionals could
3 agree on whether serious bodily injury had been
4 committed in this case, was really icing on the case
5 to a motion that we had already talked about and
6 considered filing.

7 THE COURT: Well, I do think that there is
8 sufficient evidence to -- for the jury to find that
9 he intended to commit -- that the conspiracy
10 intended to commit serious bodily injury. But
11 you're welcome to argue in closing about the
12 evidence there, that there is not enough to
13 establish it.

14 But I think that Mr. Castellano is
15 correct. Looking just at the injury itself is not
16 probably the appropriate focus. It's going to be on
17 the intent, what they intended to do, and there does
18 seem to be evidence that they intended to.

19 I don't disagree that it is conflicting,
20 but it seems to me that's sufficient to allow the
21 jury to sort that out. So I'll deny the motion
22 and -- but I'll continue to give it some thought as
23 we barrel toward jury instructions.

24 MR. LOWRY: Okay, Your Honor. And we have
25 a second motion, actually, would be under conspiracy

1 to commit the murders of Gregg Marcantel and Dwayne
2 Santistevan. Under the Sears rule, it's impossible
3 for a defendant to conspire with a Government agent.

4 And in this case, what we -- what the
5 evidence has showed is that, at best, Mr. Baca
6 conspired with Eric Duran, who at all times was an
7 agent of the United States. And then was assisted
8 in that conspiracy with Mario Montoya, who was also
9 an agent of the United States.

10 Now, I'm certain the Government will argue
11 that there was Chris Garcia, who was in the mix in
12 terms of the conspiracy, but I think it's critical
13 to understand that Mr. Garcia was kept willfully
14 ignorant about the scope of that conspiracy until
15 the bitter end, when he was informed by Mr. Montoya,
16 who was a Government agent, at the nature of the
17 conspiracy.

18 Now, at all times, in looking at the
19 telephone calls and the transcripts, there is no
20 indication whatsoever based on the recorded
21 conversations, that Mr. Baca had done more --
22 anything more than conspire with Mr. Garcia to
23 obtain a firearm for a felon, which would be a
24 conspiracy to commit felon in possession of a
25 firearm. But I don't think there was a meeting of

1 the minds or an agreement between Mr. Baca and
2 Mr. Garcia as to the purpose of what that weapon was
3 to be used for.

4 And I think what we see in the evidence is
5 the Government tried a Band-Aid approach, and had
6 Mr. Montoya alert Mr. Garcia in that November 29
7 recording that, "Oh, by the way, we're going to kill
8 Mr. Marcantel with this weapon." And I just don't
9 think that's sufficient under the Sears rule to
10 bootstrap Chris Garcia's knowledge into a meeting of
11 the minds with Mr. Baca about the object of the
12 conspiracy.

13 Again, there is just no formal agreement
14 between those two players as to what was being
15 accomplished. That formal agreement was between
16 individuals and Government actors. And it's a very
17 odd situation. I've looked into the case law, but I
18 can't find anything that really addresses this,
19 where one person to the conspiracy is trying to
20 conspire to commit crime A, and another one is
21 trying to commit crime B, and do these conspiracies
22 meet in the middle and get married? I think not,
23 under the Sears rule, Your Honor.

24 THE COURT: All right. Thank you, Mr.
25 Lowry.

1 Mr. Castellano?

2 MR. CASTELLANO: There is evidence
3 regarding these conspiracies. We have actually
4 letters in evidence from Roy Martinez and Robert
5 Martinez indicating that they had conspired with Mr.
6 Baca to murder both Santistevan and Marcantel. So
7 we have that for starters. We also have information
8 they drew out in only cross-examination that -- from
9 Eric Duran that he hated Santistevan, even more than
10 Marcantel. And Eric Duran also told us about that
11 conspiracy.

12 And then, finally, Jake Armijo said when
13 he visited with Chris Garcia, Chris Garcia himself
14 told Jake Armijo that, "Pup has us on a mission to
15 kill Marcantel." So I think there is plenty there.

16 And there is also the evidence that
17 Mr. Baca conspired with Christopher Garcia and with
18 Mandel Parker. So there were three people at the
19 tail end of that conspiracy who conspired to murder
20 Mr. Marcantel, and there is also talk at the very
21 beginning of wanting to kill Dwayne Santistevan.

22 And -- I'm forgetting his name -- I want
23 to call him Barney Rubble. I just think of him as
24 Barney Rubble now. But in terms of -- in terms of
25 Santistevan, it is clearly somebody they wanted to

1 kill first. And then it turned to Mr. Marcantel.
2 So we had four other co-conspirators who conspired
3 with Mr. Baca to commit these crimes.

4 THE COURT: So in addressing Mr. Lowry's
5 Sears point, what is the link between Baca -- Mr.
6 Baca and Mr. Garcia that doesn't necessarily include
7 a cooperator?

8 MR. CASTELLANO: Well, the cooperators
9 were conduits of that information. They said, "Mr.
10 Baca wants to kill Mr. Marcantel," and those people
11 agreed that -- agreed with Mr. Baca that those
12 things should happen.

13 THE COURT: Is there any evidence of them
14 using any other means, other than the cooperators,
15 to pass through the information?

16 MR. CASTELLANO: Well, according to Mario
17 Montoya's testimony, he said there were times he
18 would talk to Chris Garcia, even when they told him
19 not to tell him things, and there were things he
20 already knew when he met with him. So there is an
21 indication that Christopher Garcia was getting his
22 information by other means. And like I said, he
23 told Jake Armijo that he was on a mission -- he and
24 Pup had him on a mission to kill Gregg Marcantel.
25 So that admission, as well, covers that.

1 I agree, you can't conspire with a
2 cooperator doesn't mean that you can't get a
3 cooperator to be a conduit of information by which
4 other people agree. And those people clearly agreed
5 with Mr. Baca that Mr. Marcantel should be murdered.

6 But I said in addition to that, we have
7 the letters from Roy Martinez and Robert Martinez.
8 And then we have the recordings from Mr. Baca
9 talking to Mr. Garcia. So there are also recordings
10 from Mr. Duran indicating that this conspiracy
11 should proceed. So we have an indication directly
12 between Mr. Baca and Mr. Garcia regarding Mr.
13 Marcantel.

14 So we have it at the front end, and we
15 have it at the tail end, with Robert Martinez and
16 Roy Martinez in the letters. And then we have it in
17 the tail end with the recordings. So there is
18 plenty of evidence by which the jury could find --
19 could find guilt on those charges.

20 THE COURT: All right, Mr. Castellano.

21 Anything further on that, Mr. Lowry?

22 MR. LOWRY: No, Your Honor. I just think
23 by the time -- well, I'm not aware -- and I'd be
24 glad for the Government to point out to me -- of any
25 recorded conversation between Mr. Baca and

1 Mr. Garcia that discuss the object of the conspiracy
2 was to kill Mr. Marcantel. They certainly
3 discussed, without a doubt -- without a shadow of a
4 doubt, about obtaining a weapon. But they never
5 discussed what the purpose of that weapon was for,
6 to my knowledge.

7 Now, I think Mr. Castellano just -- when
8 you asked him about the conduit, again, reaffirmed
9 my belief that the only conduit of this information
10 was Mario Montoya, who was, at all times,
11 cooperating with the United States.

12 THE COURT: Well, if you had -- let's say
13 you had a formal contract, but you got two people at
14 two different places. Just because somebody
15 transmits the formal contract doesn't -- and it
16 happens to be a Government informant -- doesn't mean
17 that when they sign the agreements, they wouldn't be
18 conspirators. Do you agree with that? So just
19 being a conduit doesn't seem to be a problem. It
20 seems to me it's a fact, but it's not necessarily a
21 problem, a Sears problem.

22 MR. LOWRY: And I don't -- let me work
23 with that analogy a little bit, Your Honor. I think
24 if we're talking about a formal contract, it depends
25 what's in the body of the contract, and what -- Mr.

1 Baca clearly had conversations, directed and pointed
2 conversations with both Eric Duran and Mario Montoya
3 on the line, saying, "I don't want Chris Garcia to
4 know anything about this." In fact, it went so far
5 as to say, "I don't want Chris Garcia to know
6 anything about this because he's got a big mouth.
7 He'll tell everybody. Keep him ignorant about what
8 we're doing."

9 And so if the body of the contract is,
10 "Let's work with Chris Garcia to get a firearm,"
11 that's a conspiracy to get a firearm. Now, if the
12 body of the contract is, "Let's go kill Gregg
13 Marcantel and Dwayne Santistevan," I would agree
14 with Your Honor.

15 But what I'm suggesting is as far as
16 Mr. Garcia was concerned, there wasn't a meeting of
17 the minds between Mr. Baca -- what purpose
18 Mr. Garcia was to do, and the only meeting of the
19 minds he had with Mr. Garcia directly was, "I'd like
20 to get a weapon." So --

21 THE COURT: Well, I understand your point.
22 I'm inclined to think there is enough for a
23 conspiracy. I'll continue to give it some thought
24 and you can too.

25 MR. LOWRY: And I have a brief in

1 progress, Your Honor. I'll get it to you over the
2 weekend.

3 THE COURT: I'm not going to grant it now,
4 but I'll continue to think about it.

5 MR. LOWRY: Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Lowry.

7 Mr. Villa?

8 MR. VILLA: Judge, I would like to make a
9 Rule 29 motion; however, we're short on time, and I
10 know Ms. Jacks' witness is waiting, and I believe he
11 has a medical emergency that he needs to get back to
12 California to. If the Court and the Government
13 would be so inclined, I can make the motion Monday
14 morning, and that way Ms. Jacks can put her witness
15 on.

16 THE COURT: What's your thoughts on that,
17 Mr. Castellano; is that all right?

18 MR. CASTELLANO: That's fine, Your Honor.

19 THE COURT: All right.

20 MR. MAYNARD: And because of the time
21 factor, Your Honor, for Mr. Herrera, I'd like the
22 same request.

23 THE COURT: Is that agreeable to you, Mr.
24 Castellano?

25 MR. CASTELLANO: It is, Your Honor.

1 THE COURT: Do you want do the same thing,
2 Ms. Jacks?

3 MS. JACKS: I do, thank you. And I
4 appreciate everyone's cooperation.

5 THE COURT: All right. Does that work for
6 you, then, Mr. Castellano? We'll take those three
7 motions up on Monday morning?

8 MR. CASTELLANO: Yes, sir.

9 THE COURT: All right. Let me ask this:
10 Do you have a sense how long it will take to take
11 the motions up? I might tell the jurors they don't
12 need to show up for a little bit on Monday morning.
13 Do you have a sense, Mr. Villa?

14 MR. VILLA: I think mine would be 10 or 15
15 minutes, including the Government's response.

16 THE COURT: How about you, Mr. Maynard?

17 MR. MAYNARD: The same.

18 THE COURT: All right. Ms. Jacks?

19 MS. JACKS: Probably even less.

20 THE COURT: Okay. Well, what if I told
21 them to show up at 9:00? Does that work for
22 everybody?

23 All right. So if y'all are ready to go,
24 we'll bring in the jury in and I'll -- should I turn
25 to you, Ms. Jacks, and say, "Do you have your first

1 witness on behalf of Mr. Sanchez?"

2 MS. JACKS: That's fine, thank you.

3 MR. BECK: You can tell them to show up at
4 noon and we can show up at 11:00, Your Honor.

5 THE COURT: If you want to get him on in
6 and up here, that would be fine.

7 MR. VILLA: Mr. Lowry went to get him.

8 THE COURT: What's the name of your first
9 witness, Ms. Jacks?

10 MS. JACKS: Christian Filipiak.

11 THE COURT: Mr. Filipiak, if you'll come
12 up and stand next to the witness box on my right,
13 your left, we're going to bring the jury in, so
14 we're just all standing for the jury, so if you will
15 remain standing. Then after the jury comes in, I'll
16 have my courtroom deputy swear you in.

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: All rise.

19 (The jury entered the courtroom.)

20 THE COURT: All right, everyone be seated.

21 All right. Ms. Jacks, your first witness
22 on behalf of Mr. Sanchez is Mr. Christian Filipiak?

23 MS. JACKS: Thank you, Your Honor, yes.

24 Christian Filipiak, F-I-L-I-P-I-A-K.

25 THE COURT: All right. Mr. Filipiak, if

1 you'll raise your right hand, Ms. Standridge will
2 swear you in.

3 CHRISTIAN FILIPIAK,
4 after having been first duly sworn under oath,
5 was questioned, and testified as follows:

6 THE CLERK: Please be seated and state and
7 spell your name for the record.

8 THE WITNESS: My name is Christian
9 Filipiak. C-H-R-I-S-T-I-A-N, F-I-L-I-P-I-A-K.

10 THE COURT: Mr. Filipiak. Ms. Jacks.

11 MS. JACKS: It's a mouthful, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. JACKS:

14 Q. Good afternoon, Mr. Filipiak.

15 A. Good afternoon.

16 Q. How are you currently employed?

17 A. I'm an investigator for the Federal Public
18 Defender's office in Nevada.

19 Q. And prior to being employed by the Federal
20 Public Defender office, were you a private
21 investigator?

22 A. Yes.

23 Q. And for -- can you tell us for how long?

24 A. For over 25 years I was a licensed private
25 investigator. I had a company in Los Angeles.

1 Q. And were you appointed by the Court to
2 work with Mr. Jewkes and I in helping us investigate
3 the case against Daniel Sanchez?

4 A. Yes.

5 Q. And can you just briefly explain for the
6 jury what sort of training and experience you have
7 that qualifies to you be a private investigator?

8 A. Sure. I spent 10 years in the Air Force.
9 Five of those were as a Special Agent with the Air
10 Force Office of Special Investigations. I went to a
11 basic academy, and then after that, there was more
12 training through the Federal Law Enforcement
13 Training Camp, and then on-the-job training. Once I
14 finished that, after my 10 years, I got out, started
15 my company, and continued my education and training
16 through that.

17 Q. And do you work primarily with lawyers
18 that work in Federal Court?

19 A. Primarily, yes.

20 Q. But you also work in state court?

21 A. I work in state court. I do death penalty
22 work in both arenas, then I also -- when I was doing
23 my private investigative stuff, I did entertainment
24 industry investigations, as well.

25 Q. And do you -- have you conducted

1 investigations in different states besides
2 California?

3 A. Yes. States and countries.

4 Q. Can you just give us an idea of how many
5 foreign countries you've conducted an investigation
6 in?

7 A. At last count it was about 22.

8 Q. Now, as part of your work in this case,
9 did you set up an interview with Lupe Urquizo?

10 A. I did.

11 Q. And can you tell us how you set it up, and
12 when it was scheduled?

13 A. Sure. I did the application process to
14 get admitted to the facility. He was at
15 Penitentiary of New Mexico South at the time. And
16 once I got approved for the visit, the visit was set
17 up to meet with him.

18 Q. And did we go together to meet with Mr.
19 Urquizo?

20 A. Yes.

21 Q. Do you remember the date?

22 A. May 25, 2016.

23 Q. Now, was -- where did the -- did Mr.
24 Urquizo agree to speak with us?

25 A. Yes.

1 Q. And where did the meeting between you and
2 I and Mr. Urquizo take place?

3 A. It took place in a counselor's office.

4 Q. And was there a window in that office?

5 A. Yes, there was a window.

6 Q. And was there a door?

7 A. There was a window and a door.

8 Q. And was there a correctional officer that
9 was in the room with us?

10 A. No. He stood outside once he got us
11 seated in the room. Then the door got closed and we
12 had privacy.

13 Q. But we were being watched by the
14 correctional officer?

15 A. At all times, yes.

16 Q. Now, was Mr. Urquizo forced to talk to us?

17 A. No.

18 Q. Was he promised anything if he sat down
19 and spoke with us?

20 A. No.

21 Q. And did we threaten him in any way?

22 A. No.

23 Q. Approximately how long, if you recall, did
24 we meet and speak with Mr. Urquizo?

25 A. I think it wasn't more than an hour,

1 somewhere around an hour.

2 Q. And did we explain to him why we were
3 there talking to him?

4 A. Yes.

5 Q. And what do you recall about what was
6 explained to him about why we were there?

7 A. There was an allegation that he had
8 brought paperwork down from PNM South, and he had
9 brought that paperwork down to the Las Cruces
10 facility, Southern, and that paperwork had to do
11 with a guy named Javier Molina who had cooperated,
12 allegedly, with police. And so he was, according to
13 the theory that the Government was telling us, he
14 was the guy that brought the paperwork down.

15 Q. There were actually a few people, right?

16 A. Right.

17 Q. He was one of the people that had been
18 named?

19 A. Correct.

20 Q. Now, when we explained that, why we were
21 there, to Mr. Urquizo, do you recall what his
22 reaction was?

23 A. Yes, he started laughing.

24 Q. And did he explain to us why he was
25 laughing, or why his reaction was that way?

1 A. Well, he just said it was impossible, it
2 couldn't have happened.

3 Q. And was he at the time -- was he aware --
4 were we just telling him for the first time that he
5 had been accused of bringing this paperwork down, or
6 was he already aware of that allegation in some way?

7 A. He was already aware of the allegation.

8 Q. And do you remember if he told us how he
9 was already aware of that allegation?

10 A. Actually, I don't remember.

11 Q. Okay. Let's go -- let's just go forward
12 and talk a little bit about what Mr. Urquizo told
13 us. And I'm not going to go through the whole
14 interview. He's already testified, so I'm just
15 going to go through particular points.

16 A. Okay.

17 Q. With respect to -- well, first of all, one
18 of the things we talked about with him was this
19 transportation; right?

20 A. Yes.

21 Q. On March 6, 2014?

22 A. Yes.

23 Q. And what did Mr. Urquizo say about whether
24 he was transported from the Penitentiary New Mexico
25 South facility to Southern New Mexico Correctional

1 Facility on that day?

2 A. He said that it happened. He was
3 transported. And he was in a van with two other
4 guys. And that they took sort of a circuitous route
5 to get there. They stopped at several other
6 facilities on the way down, and that he arrived at
7 Southern, he got into his cell sometime around 10:00
8 p.m. on that day.

9 Q. I want to -- I want to direct you
10 specifically to what happened to Mr. Urquizo's
11 personal body prior to transport. Did he tell you
12 whether he was strip searched prior to the transit?

13 A. Yes. Strip searched, their clothing was
14 taken away from them, and they put some sort of -- I
15 guess you'd call it a painter's outfit or something
16 like this, a onesie that he put on. It was all
17 white; and just their boxers. That was just their
18 clothes.

19 Q. So he described being provided a white
20 jumpsuit to wear during the transport?

21 A. Yes.

22 Q. With respect to Mr. Urquizo's personal
23 property, did he say that he had personal property
24 that was transferred with him down to Southern?

25 A. He did.

1 Q. And what did he say about how that
2 property was prepared for the transport?

3 A. That it was inventoried by somebody at
4 PNM. It was stuck inside plastic bags that you
5 could see through, and then all of the -- all the
6 inmates' personal belongings were put in a trailer,
7 which was hauled behind the van.

8 Q. And did he say anything about observing a
9 property inventory form being completed, or about
10 signing a property inventory form?

11 A. That he did observe it and he did get one.

12 Q. Once he arrived -- once he arrived at
13 Southern, did Mr. Urquizo say anything about a
14 second strip search?

15 A. I don't remember if he said he got strip
16 searched again, but I remember him talking about the
17 policy that on both ends they got the same
18 treatment: strip searched, inventory, it was the
19 same procedure.

20 Q. What did Mr. Urquizo say about his
21 personal -- what happened with his personal property
22 when he got to Southern the evening or the night of
23 March 6, 2014?

24 A. He didn't get anything the night of March
25 6 because he got there, and everything was on

1 lockdown, and he was locked down. On the 7th, his
2 property was brought into the pod, but it wasn't
3 given to him. It was placed in like the common
4 area, and since it was locked down, he couldn't get
5 to it.

6 Q. And what did Mr. Urquizo tell us about
7 whether he ever got his property back while he was
8 at Southern?

9 A. He never got it, because then the incident
10 with Molina happened, and he got transported back up
11 to PNM.

12 Q. And did Mr. Urquizo tell us anything about
13 whether there was a property inventory form that he
14 would receive at Southern to, I guess, when he --
15 let me go back, that was a terrible question.

16 Did he say anything about getting a
17 property inventory form at Southern?

18 A. I don't remember that. I don't remember
19 if he did or not.

20 Q. All right. I want to -- at some point
21 after May 25, 2016, did you go back and meet with
22 Lupe Urquizo again?

23 A. Yes.

24 Q. And what was the purpose of that meeting?

25 A. I wanted to get a release signed from him

1 so that we could get these different property
2 records that he told us about, and then also to have
3 him look over a report that I had written about our
4 previous interview just to make sure that there
5 weren't any corrections that needed to be made.

6 Q. Or that you hadn't made any mistakes in
7 communicating with him?

8 A. Yes.

9 Q. When -- was that a visit that you did on
10 your own?

11 A. I did.

12 Q. And do you remember when that was?

13 A. It was about two weeks after.

14 Q. So sometime in the middle of June 2016?

15 A. June 15, 16, something like that.

16 Q. And with respect to your investigation,
17 you had prepared a memo of investigation?

18 A. Yes.

19 Q. And when you met with Mr. Urquizo on --
20 the second time, did you physically provide him a
21 copy of that memo of investigation?

22 A. Yes. I handed to it him, and he flipped
23 through the pages and looked through it.

24 Q. Did he appear to be reading it?

25 A. He did.

1 Q. And did he bring any errors or issues to
2 your attention?

3 A. He did not. He just gave it back to me
4 and said, "It looks fine."

5 Q. Mr. Filipiak, did you have Mr. Urquizo
6 sign a release that you had prepared?

7 A. I did.

8 Q. And I want to show you what's been
9 admitted as Defendant's Exhibit ER. E as in "echo"
10 and R as in "read." It's up on the screen.

11 Is that the release that you prepared and
12 asked Mr. Urquizo to sign?

13 A. Yes.

14 Q. And is it dated June 15, 2016? Is that
15 when you went back and saw him?

16 A. Yes.

17 Q. Now, Mr. Urquizo testified that we asked
18 him to sign that release so we could look through
19 his phone calls and letters; is that accurate?

20 A. No. I never asked to look through any
21 phone calls or letters.

22 Q. And what did you tell him specifically
23 about why you wanted this release?

24 A. Because I wanted to get those transport
25 records and the yellow slips that had the inventory

1 on them.

2 Q. The property inventory forms?

3 A. Property inventory forms, right.

4 Q. Did you clearly explain to Mr. Urquizo
5 that was what your intent was in asking him to sign
6 this release?

7 A. Yes.

8 Q. During our interview with Mr. Urquizo --
9 and now I'm going back to the May 25 interview, May
10 25, 2016. Did he say anything about obtaining video
11 from blue pod and yellow pod?

12 A. Yes.

13 Q. And what was it he said?

14 A. So he told us that there was accusation
15 that the paperwork had been passed between the pods
16 underneath a particular door that connects the two.
17 And he told us if we get the video that points to
18 either side of that door, it will show that he never
19 went to that door.

20 Q. So he thought the video would actually
21 corroborate what he was telling us in our interview?

22 A. Correct.

23 Q. I have one final area I want to question
24 you about. During our interview with Mr. Urquizo,
25 did he ever say that he had been questioned by law

1 enforcement regarding whether he had transported
2 paperwork?

3 A. Yes.

4 Q. And do you remember who questioned him and
5 the circumstances of that?

6 A. I think it was Lieutenant Sapien, and he
7 works for STIU -- I'm sorry, I don't remember what
8 STIU stands for. But it's internal security inside
9 the jail system. And he was called in to the office
10 and questioned about whether he had transported the
11 paperwork.

12 Q. And what did Mr. Urquizo tell us about
13 what he told Lieutenant Sapien?

14 A. That he didn't do it.

15 Q. And was there anything that Mr. Urquizo
16 was particularly annoyed about that occurred during
17 or after that meeting with Lieutenant Sapien? And
18 this is with respect to some personal property of
19 his.

20 A. Yes. He had a piece of some sort of
21 jewelry, a gold necklace or something, and they took
22 it and didn't give it back to him.

23 MS. JACKS: Thank you, I have nothing
24 further.

25 THE COURT: All right. Thank you, Ms.

1 Jacks.

2 How about the defendants? Anybody else
3 have any direct examination of Mr. Filipiak?

4 MS. DUNCAN: No, Your Honor.

5 THE COURT: All right.

6 Ms. Armijo, do you have cross-examination?

7 CROSS-EXAMINATION

8 BY MS. ARMIJO:

9 Q. Good afternoon, Mr. Filipiak.

10 A. Good afternoon.

11 Q. Now, did you record this interview?

12 A. I did not.

13 Q. Okay. And you would agree that if you
14 recorded this, then we could hear exactly what Mr.
15 Urquizo said; correct?

16 A. I could, but the problem is since I'm not
17 law enforcement, they don't allow us to bring
18 recording devices into the facility.

19 Q. Did you ask if you could bring a recording
20 device?

21 A. I don't remember if did. Generally I
22 don't even ask because it's in the policy that they
23 don't allow it unless you're law enforcement, so I
24 probably didn't ask.

25 Q. All right. But that is something that at

1 least you could have asked for?

2 A. I could have asked, yes.

3 Q. And when you met with Mr. Urquizo, you
4 initially told him, I believe, that there was an
5 allegation that he passed the paperwork; correct?

6 A. Yes.

7 Q. And, in fact, did you or Ms. Jacks ask him
8 if he would testify that he didn't bring the
9 paperwork, even if he did, to say that he didn't?

10 A. Say that again? That was a lot.

11 Q. Did you or Ms. Jacks tell him that -- ask
12 him if he would testify that he didn't bring the
13 paperwork, and even if he did, that he would say --
14 if he would say that he didn't pass the paperwork,
15 basically?

16 A. No.

17 Q. Okay. Are you aware that Mr. Urquizo told
18 law enforcement that that's what occurred?

19 A. No.

20 Q. All right. And then, did you also -- what
21 personal property did he tell you that he had
22 brought? I'm sorry, I should be specific. What
23 personal property did he tell you that he brought
24 from the South to Southern?

25 A. I don't know that he actually gave us a

1 list of anything. Because that's why I was hoping
2 to get the inventory list. I think he told us he
3 didn't recall what he brought, whatever he had in
4 his cell, his personal property. I don't think I
5 listed it individually.

6 Q. That you did or you did not?

7 A. Did not.

8 Q. Okay. So you didn't ask him what specific
9 property he brought?

10 A. No, because I wasn't worried. All I was
11 worried about was the police report, that document.

12 Q. And based upon his story that day, he said
13 that he put the property on a table in the day room,
14 and that he never got it; correct?

15 A. No, he didn't put it in there, somebody
16 put it in there. I'm assuming a guard put it in
17 there on the table, because he's locked in a cell.
18 He didn't do anything. He couldn't get out of his
19 cell.

20 Q. All right. And with that story, if a
21 guard just put it there, that would mean -- and
22 since he's locked up -- that other people could have
23 gotten his property; correct?

24 A. Sure.

25 Q. All right. And so if the paperwork was in

1 his property, that would give him a story as to,
2 "Hey, somebody got into my property, I never even
3 had my property;" correct?

4 A. I suppose.

5 Q. And how likely do you think it is that
6 Corrections would just go and put an inmate's
7 personal property that, as you know -- well, let me
8 ask you some questions: Are you aware, based upon
9 your work in this case, that the facilities are
10 supposed to do property inventories on the way --
11 sending an inmate down; correct?

12 A. Correct.

13 Q. And then once they arrive at the facility,
14 somebody else is supposed to take an inventory of
15 the property; correct?

16 A. Correct.

17 Q. And the purpose of that is to protect the
18 inmate's property rights, basically, correct?

19 A. Yes.

20 Q. So the story about putting property in the
21 middle of a pod where the inmate could not have
22 access to it, would be inconsistent with the policy
23 where Corrections is taking great pains to protect
24 property of an inmate; correct?

25 MS. JACKS: Your Honor, I think that's an

1 opinion that Mr. Filipiak is probably not qualified
2 to give.

3 THE COURT: Well, if he knows, he can
4 state. If he doesn't, he can state it.

5 A. Having never worked in the Correction
6 arena, I don't know what the actual policy is. I
7 don't know what the procedures are, other than what
8 he told me.

9 BY MS. ARMIJO:

10 Q. Didn't you look at the policies? Because
11 you even wrote an affidavit in order to try and get
12 those records; correct?

13 A. An affidavit?

14 Q. A release, I'm sorry. You had Mr. Urquizo
15 later sign a release so that you could get the
16 records about the inventory; correct?

17 A. Yes.

18 Q. So you are aware that there were records
19 that New Mexico Corrections Department was supposed
20 to have in reference to that; correct?

21 A. Yes.

22 Q. Because that's what you were trying to get
23 at; correct?

24 A. Correct. I wanted those inventory
25 records.

1 Q. Okay. And would you not agree, even on a
2 common sense level, that having all those records by
3 the Corrections Department would be inconsistent to
4 just leave an inmate's property on a table where the
5 inmate didn't have access to it?

6 A. Well, it wouldn't be something I would do,
7 but I don't know what goes on in the Corrections
8 Department, so --

9 Q. All right. Now, you wrote in your report
10 that he did not have any police reports. Why was it
11 important for you to note that?

12 A. Because that's what the allegation was,
13 that he had some sort of a police report.

14 Q. And why did you write that he did not have
15 any contraband?

16 A. Because that's what he told me, he didn't
17 have any contraband.

18 Q. Are you aware that he actually had
19 contraband?

20 A. I'm not aware.

21 Q. And, at the time of this interview that
22 you had with him, I believe you said it was
23 initially in May of 2016; correct?

24 A. Yes. That was the first interview,
25 correct.

1 Q. And if he had admitted to you that he
2 brought the paperwork down, wouldn't he have been
3 exposing himself to potential criminal liability?

4 A. Talking to me, as a defense investigator?

5 Q. Well -- well, let me ask it this way: I
6 mean, obviously you're not going to run tell
7 somebody, but if a person is admitting a crime, you
8 don't have any privilege, do you? You weren't his
9 --

10 A. Correct, no privilege.

11 Q. -- his spouse; correct?

12 A. Correct.

13 Q. You were not his priest; correct?

14 A. No, I wasn't.

15 Q. So you had no special privilege for which
16 Mr. Urquizo could confess to you and the information
17 couldn't be used against him; correct?

18 A. Correct.

19 Q. And you worked in the federal system a
20 great deal; correct?

21 A. Yes.

22 Q. So I'm sure that you've probably sat down,
23 especially in your current position, with somebody
24 who has a Kastigar letter; correct?

25 A. Correct.

1 Q. And under a Kastigar letter, an inmate can
2 come in, basically, and they're protected against
3 prosecution, because what they're told -- what they
4 say, the United States cannot use against them;
5 correct?

6 A. Correct. I have such authority to give
7 anybody dispensation regarding what they say.

8 Q. Correct. So when you met with him, he
9 obviously did not admit any involvement in the
10 Javier Molina murder; correct?

11 A. Correct.

12 Q. All right. And then, are you aware -- did
13 you continue working on this case into May of 2017
14 when Mr. Urquizo actually did sit down under the
15 Kastigar letter?

16 A. No. I was out of the case before that.

17 Q. Okay. But based on your experience with
18 Kastigar letters, you are familiar that when
19 somebody sits down with the Government under that
20 protection, that they are then protected from
21 criminal prosecution based upon what they say?

22 A. Yes.

23 Q. And that is something that you could not
24 have offered him, then; correct?

25 A. Correct.

1 Q. And you are also aware that at the time
2 that you spoke to him, he was still an active SNM
3 Gang member; correct?

4 A. Yes.

5 Q. And how much gang experience do you have,
6 as far as talking to members of the gang?

7 A. Of specifically SNM, or other gangs?

8 Q. Any gang.

9 A. I have 25 years of doing dozens of RICO
10 cases.

11 Q. Okay. Because you're in California.
12 There is a big gang problem there; correct?

13 A. Correct.

14 Q. You indicated you work a lot in the
15 federal system, so that's generally how they're
16 prosecuted in the federal system; correct?

17 A. Yes.

18 Q. Okay. And so you weren't surprised that
19 an active SNM Gang member wasn't going to talk --
20 say something that was inconsistent with the gang,
21 were you?

22 A. No.

23 MS. ARMIJO: All right. If I just may
24 have a moment?

25 THE COURT: You may.

1 BY MS. ARMIJO:

2 Q. Just a couple more questions. Mr. Urquizo
3 never told you that he -- where is it in your report
4 that you talked about the Molina murder itself?

5 A. I have no idea.

6 Q. Okay. Because it's not in there; correct?

7 A. I don't know what part you're referring
8 to. What I have said earlier --

9 Q. I just received your report about two
10 hours ago, and in looking at it, I don't see
11 anywhere in here that you indicate that Mr. Urquizo
12 spoke to you about the Molina murder; correct?

13 MS. JACKS: I think that Mr. Filipiak
14 should be given a copy. I can certainly do that,
15 because it's in the first paragraph.

16 THE COURT: Well, Ms. Armijo can
17 cross-examine him, and if you want to deal with it
18 on redirect, you can.

19 BY MS. ARMIJO:

20 Q. Is it in there?

21 A. I lost the question.

22 Q. Okay. I was asking you where in the
23 report is it that Mr. Urquizo made statements about
24 the Molina murder, for instance?

25 A. That specific statement is not in there.

1 It's just something I told him verbally, that the
2 reason I was there was to talk to him about this
3 allegation.

4 Q. And I guess that's my point: It's not in
5 here. So I'm asking you if, in fact, you and Mr.
6 Urquizo ever discussed the details of the Molina
7 murder?

8 A. No. All I discussed with him was what his
9 alleged part was. I never discussed anything else
10 about the murder with him.

11 Q. Because what he told you was that the
12 property was placed on the table in the day room,
13 and then the next thing, the incident happened
14 before he could get it; correct?

15 A. Correct.

16 Q. All right. And you didn't talk to him
17 about what the incident was, or anything else?

18 A. No. He already knew that Javier had been
19 killed.

20 Q. I'm sorry, what did you say?

21 A. He already knew that Javier had been
22 killed.

23 Q. And then he indicated to you that the van
24 departed PNM around 12:30 p.m.?

25 A. Yes.

1 Q. And that they drove to Guadalupe County
2 Correctional Facility in Santa Rosa to pick up some
3 inmates?

4 A. Yes.

5 Q. And then they drove -- they drove to
6 Roswell -- Correctional Center in Roswell to pick up
7 more inmates?

8 A. Yes.

9 Q. And then they arrived between 8:00 and
10 9:00 p.m. Is that what he told you?

11 A. If that's what it says on the report,
12 that's what he told me.

13 Q. Okay. You don't remember that?

14 A. I assume you're reading the report, so...

15 Q. Yes, I am. Would your report be accurate
16 as to what he told you?

17 A. Yes.

18 Q. And did you actually have an opportunity
19 to -- in your capacity as the defense investigator,
20 to see whether or not that was correct?

21 A. To confirm it with records?

22 Q. Yes.

23 A. By the time that all of this was
24 happening, I had started getting out of the case, so
25 I don't know what the new investigator did after I

1 left. I'm assuming that was followed up on, but I
2 don't know. I think we did an IPRA request.

3 Q. So you have no idea if that was the
4 correct route or not?

5 A. I do not.

6 MS. ARMIJO: That's all I have, Your
7 Honor.

8 THE COURT: Thank you, Ms. Armijo.

9 Anyone else have any redirect?

10 Ms. Jacks?

11 MS. JACKS: Just briefly, Your Honor. May
12 I?

13 REDIRECT EXAMINATION

14 BY MS. JACKS:

15 Q. Mr. Filipiak, if Mr. Urquizo didn't want
16 to answer a question, could he have just told you,
17 "I don't want to answer that question"?

18 A. Yes.

19 Q. And did he ever say that during the
20 interview?

21 A. No.

22 Q. Have you, in your 25 years' experience,
23 interviewed people, specifically gang members, that
24 when they don't want to answer a question, tell you
25 they're not going to answer the question?

1 A. Absolutely.

2 Q. And was Mr. Urquizo free to leave the
3 interview at any time?

4 A. Yes.

5 MS. JACKS: I have nothing further.

6 THE COURT: Thank you, Ms. Jacks.

7 All right, Mr. Filipiak, you may step
8 down.

9 Is there any reason that Mr. Filipiak
10 cannot be excused from the proceedings? Ms. Armijo?

11 MS. ARMIJO: Your Honor, yes.

12 THE COURT: All right. Ms. Jacks, may he
13 be excused?

14 MS. JACKS: Yes, Your Honor. Thank you.

15 THE COURT: You're excused from the
16 proceedings. Thank you for your testimony.

17 All right. Shall we call it a week? Yes?
18 We tried to squeeze that witness in. You could tell
19 we all cooperated to get that done.

20 All right. Well, listen, I'm going to
21 give you a little bit of break. You don't need to
22 be back till 9:00. I'm going to meet with the
23 lawyers on Monday morning, so you can sleep in a
24 little bit and be back at 9:00.

25 Be safe in your travels. I'm going to

1 head back to Albuquerque, and I'm flying to Yale.
2 I've got a board meeting up there tomorrow, so I'm
3 doing a little traveling. So I plan to be here
4 early on Monday. I hope you're planning to be here,
5 as well. Be safe, have a good weekend, and get some
6 rest.

7 Thanks for your hard work. See you on
8 Monday morning.

9 All rise.

10 (The jury left the courtroom.)

11 THE COURT: All right. I appreciate your
12 hard work. Remember, you owe me a letter by 7:30 on
13 Monday morning, so I can really start working on
14 these instruction. So give me as much as you can so
15 I can sort of mark them up and try to get another
16 set.

17 All right. Appreciate your hard work.
18 Have a good weekend.

19 (The Court stood in recess.)
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
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 4th day of February, 2019.

13
14 
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